VOL. I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Berkeley County
Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GABRIELLE OLIVA LASHANE DAVIS KOCSIS,

APPELLANT

APPELLATE CASE NO. 2019-000687

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	) GENERAL SESSIONS COURT
COUNTY OF BERKELEY	) CASE NO. 2016-GS-08-01951, 1953, 1955, 1957, 1959
STATE OF SOUTH CAROLINA, Plaintiff, vs. GABRIELLE OLIVA LASHANE DAVIS-KOCSIS, Defendant.	) Transcript of Record) Date: April 8-10, 2019

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B E F O R E:

The Honorable Maite Murphy

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Denise J. Lauder, RPR

Ninth Judicial Circuit

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(The following proceedings were had April 8, 2019, Berkeley County General Sessions, State v. Gabrielle Davis-Kocsis, 10:19 a.m.)

(State's Exhibits 1 - 19 premarked for identification by the Solicitor's Office.)

JURY PANEL,

being first duly sworn, testified as follows:

THE COURT: Morning, ladies and gentlemen. My name is Maite Murphy, and I'm a circuit court judge from Dorchester County. And it's a pleasure to be here with you this week in Berkeley County for a term of general sessions court.

You've been through the initial qualifications process of the roll call process. We now have certain questions that I must ask you that are required by state law to determine your eligibility to serve as a juror in this court.

I certainly understand that some of these questions are a little bit personal; however, it is absolutely essential that we have full and complete information from every -- from everyone.

So if the question does apply to you, please make a mental note to stand up at the appropriate time, or at the end of the questioning

not serve as a juror in this case? If so, please stand.

I find there is no one standing.

Finally, is there any member of the jury panel aware of any bias or prejudice towards either the State or defense in this case? If so, please stand.

I find there is no one standing.

Ladies and gentlemen, that would conclude the list of questions before we begin our jury selection.

Madame Clerk, do you need a few minutes?

MR. STEGALL: May we approach while they're getting that list together?

THE COURT: Yes, sir.

(Bench conference)

THE COURT: Ladies and gentlemen of the jury, it has come to my attention we have a couple of other indictments which I will read to you, and we will go through these same questions as far as these indictments.

Obviously, when the judge comes to the court we don't know anything about this case prior to. I will read to you the other indictments in

this case, and we will go through some of the same questions as we did before in regards to these allegations.

Indictment 2016-GS-08-1955 is criminal conspiracy. That indictment states that in Berkeley County, South Carolina, on or about September 27th of 2015, the defendant did combine, conspire, confederate, agree or have a tacit understanding with another or others for the purpose of accomplishing an unlawful object, or a lawful object by unlawful means, in violation of the South Carolina Code of Laws, as amended.

The next indictment is 2016-GS-08-1953, and it states that in Berkeley County, South Carolina, on or about September 27, 2015, the defendant did enter the dwelling of Rosemary Hoffberg without consent with the intent to commit a crime therein.

That in addition to said entry, or remained and occurred in the nighttime; and/or the defendant caused physical injury to a person who was not a participant in the crime; and/or the defendant displayed what was or what appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearms; and/or the defendant used

or threatened the use of dangerous instrument; and/or the defendant was armed with a deadly weapon or explosive; and/or the defendant conspired with others to accomplish the same, in violation of the South Carolina Code of Laws, as amended.

The next indictment is 2016-GS-08-1957. And it states that in Berkeley County, South Carolina, on or about September 27, 2015, the defendant did unlawfully -- unlawfully did seize, confine, inveigle, decoy, kidnap, abduct, or carry away the victim Alexis Nicole Murray without the authority of law; and the defendant -- and/or the defendant conspired with others to accomplish the same, all in violation of South Carolina Code of Laws, as amended.

Next indictment is Indictment 2016-GS-08-1959. And it states that in Berkeley County, South Carolina, on or about September 27th, 2015, the defendant did unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away the victim Whitney Renee Chance without the authority of law to accomplish the same, all in violation of the South Carolina Code of Laws, as amended.

So, ladies and gentlemen, with these indictments, and also considering the first

indictment which was read to you, is there any member of the jury panel know anything about this case, or heard anything about this case, or had any information about this case whatsoever? If so, please stand.

I find that there is no one standing.

You have heard the allegations contained in all of the indictments. Anything about the types of allegations, again, whether it's in your personal history, your family history, your friends, anything about the allegations in these indictments or the type of case that this causes you in any way to hesitate in your ability to be fair and impartial to both the State and the defense? If so, please stand.

I find there is no one standing.

Ladies and gentlemen, the alleged victim in this case is a man by the name of Mark Connor. Anyone related by blood or marriage, or have any close personal or social relationship in the past with Mr. Connor? If so, please stand.

I find that there is no one standing.

Ladies and gentlemen of the jury panel, anyone know of any reason whatsoever why he or she should not serve as a juror in this case with a

THE COURT: Counsel, anything before we recess for lunch?

MR. STEGALL: Nothing from the State.

MR. SMALDONE: Nothing from the defense.

THE COURT: We'll be in recess until 1:30.

(A luncheon recess transpired.)

THE COURT: Counsel, anything before we bring the jury out?

MR. SMALDONE: Your Honor, the only issue, we spoke in chambers about that 911 call. I don't know if Your Honor had a chance to listen to that or if you want me to make a contemporaneous objection.

THE COURT: How long is it?

MR. STEGALL: Ten minutes.

THE COURT: About ten minutes. When do you anticipate using it?

MR. STEGALL: First.

THE COURT: Right off the bat. Can you tell me about the nature of the call and explain what is on it?

MR. SMALDONE: Your Honor, it's two of the people that I believe will be called as

witnesses by the State, two females calling for 911, asking them to hurry up, crying. Saying, please don't die, to the alleged victim in this case.

So that's the nature of the call, and as I have addressed in chambers, my issue is under Rule 403. It is more prejudicial than probative. It would stir up the passions and prejudices of the jury via using emotion rather than facts.

THE COURT: Solicitor, what is your position?

MR. STEGALL: Your Honor, it's our position that, you know, most, if not all, 911 calls are emotional in nature. It not only has to be prejudicial, it has to be substantially prejudicial to the client. And it's our position that it is not substantially prejudicial.

It actually gives real time what is taking place in that moment in trying to give law enforcement the address, the description of the cars, trying to get the description of the assailants in real time.

They're crying because a friend had just gotten shot 20 minutes prior, so they are emotional, but we don't believe that emotion rises

to the level of a 403 motion.

THE COURT: Based on what was presented at this juncture, it does sound like it's intended for corroborative purposes and establishing the elements of the offense. And although it may be prejudicial, the probative value outweighs the prejudicial effects, and your motion is respectfully denied.

Anything else before we bring the jury out?

MR. STEGALL: Beg the Court's indulgence.

MR. SMALDONE: Additionally, Your Honor, two matters. One, I believe -- I was kind of talking with the State making sure that -- you know, there was an issue of some language that was alleged to have been used by my client that certainly is more prejudicial than probative, a racial slur.

Not a soft racial slur, I guess you would call it, but still designed -- you know, as Your Honor has indicated, you didn't want the witnesses to use the full word. Rather they could spell it out.

Your Honor, I still object to that

because it's still the same word, just different spelling. I'm not sure if the State's had a chance to talk to all of their witnesses so far because it's not their fault.

Some of them have different schedules, but I wanted to make sure that -- renew that objection or make that objection actually and then see where the State is at as far as letting them know.

MR. STEGALL: Your Honor, we think -- we think that the word is important because the statement is a very specific statement that she uses that three people hear too that are not related to one another; however, we do understand the sensitive nature of that.

We would ask the Court maybe, if Your Honor is inclined, they could spell the word; but we believe that it's such a specific statement heard by three different people is pretty important to this case rather than just -- rather than just shoot him, which is a generic statement.

We think maybe this extra word adds a little specificity to it, and it's unique in nature that three people -- two are in different parts of the house -- heard it.

THE COURT: And, certainly, it's my position that any time during court proceedings I don't allow vulgar language or language of that nature, which is certainly very disturbing; however, I think if it is part of the case and part of the evidence which would be relevant in your presentation of the case, I would ask that you warn the witnesses prior to testifying that I don't allow that language in the courtroom.

They can spell it out or they can refer to the -- what they're going to say as the N word. They can say it that way; however, I won't allow that specific word in my courtroom.

MR. STEGALL: Thank you, Your Honor.

MR. SMALDONE: Lastly, we have discussed this a bit, but I would object to -- I'm not sure how -- Your Honor, I'm not sure how any witness is going to testify until they testify, but I think there's some language that witnesses have used in prior statements saying my client put out what they call an ice hit on the alleged victim in this case.

I believe the word, hit, is designed and -- what that word means in street parlance is basically paying someone for an execution. I don't

believe that -- I'm not even sure that my client ever used that language. I believe that's interpreted by some witnesses.

Your Honor, I would object to that term being used particularly since I don't think my client ever said it. I think it's what people have interpreted that to be, if that makes sense.

MS. SMITH: Thank you, Judge. Certainly, as we spoke in chambers, there are going to be witnesses who contemporaneously sent messages of warning to the victim with that specific term in it as they heard it from the defendant, and that would be testified to, Judge.

It shows the intent that they inferred specifically from this defendant. It will be testified to and it will be corroborated in exhibits that we seek to introduce, Judge.

The defense can argue whatever they want as to intent, but, certainly, we have that prerogative as well in bearing the burden of proving the elements of the case.

THE COURT: Mr. Smaldone, you need to place your objection on the record at the time. Obviously, you will have to establish the proper foundation and whether or not it is relevant at the

time the testimony comes in.

So I think at this juncture your motion is premature, but if it's part of them establishing the intent of the crime to be admitted, my inclination is to allow it, but I want to hear the testimony that comes in leading up to that.

Make sure you make the objection at the proper time.

MR. SMALDONE: I think I mentioned this briefly; I would ask that that term not be used during opening statement until -- by the State. And I don't like to mess with the State's opening or closing, but I think that term -- until it's been corroborated by a witness, I think that it's too loaded of a term for the State to use.

THE COURT: Well, sir, the jury will be instructed that what the attorneys say both for the State and for the defense is not evidence in the case, that the evidence totally comes from the witness stand in the case.

And, certainly, that's up to you to -- you know, the weight or the value whatever -- of their consideration of the arguments if that's their -- it's argument. It's not evidence in the case.

So that motion is specifically denied.

Anything further --- --- -

MR. SMALDONE: That's all I have, Your Honor.

THE COURT: Anything from the State?

MR. STEGALL: Nothing from the State, Your Honor.

THE COURT: All right. The motion to sequester witnesses was granted, so make sure that there are no witnesses in the courtroom.

Let's have our jury, please.

(Jury in, 1:48 p.m.)

THE COURT: Welcome back, ladies and gentlemen of the jury. I hope that you had a nice lunch.

Madame Clerk, if you would please swear in the jury.

THE JURY,

being first duly sworn, testified as follows:

THE COURT: Ladies and gentlemen of the jury, thank you for accepting the important responsibility of jury service and for your contribution today to our system of justice.

What I will now say to you is intended to serve as an introduction to the trial of this

case. These remarks are not a charge of the law in this case. I will instruct you on the law applicable to this case at the end of the trial before you retire to consider your verdict.

This is merely an explanation of the procedure that we will follow in the trial so that you may better understand what is going on during the trial of this case.

Ladies and gentlemen, you may not take notes during the trial of this case.

The defendant in this case is charged with several indictments filed in this court; one with the crime of two counts of kidnapping, burglary in the first degree, criminal conspiracy and murder. The elements of each of the indictments will be explained to you later.

The indictment is simply the charge by which the case is brought into this court, and it is not in any sense evidence of any of the allegations that they contain.

The defendant has pled not guilty to these indictments. The State, therefore, has the burden of proving each of the elements of each indictment beyond a reasonable doubt.

It will be your duty, ladies and

gentlemen, to decide whether the State has met that burden. Your purpose as jurors is to find and determine the facts. You are the sole judges of the facts. If at any time I make a comment regarding the facts, you must disregard it.

You are to determine the facts from the testimony that you hear and other evidence that is introduced in court. It is up to you to determine the inferences which you feel may be properly drawn from the evidence.

It is especially important that you perform your duty in determining the facts diligently and conscientiously because ordinarily there is no way to correct an erroneous determination of the facts by a jury.

On the other hand, and with equal emphasis, the same law that makes you the judges of the facts makes me the judge of the law. The law as given by the Court is the only law that you may consider. You must accept it and follow it even though you may disagree with it.

I cannot tell you what the facts are and you cannot disagree with me about what the law is or should be. Your job is to take the law as I give it to you and apply it to the facts as you

find them, the testimony of the witnesses and any other evidence that is introduced.

After doing that, you will render your verdict under the solemn oath that you just took as jurors. Until I advise you to begin your deliberations, you must not discuss this case with anyone. This includes your fellow jurors, your family members, and anyone involved in this case.

This includes any discussion which are face to face, anything by telephone, e-mail, text, blogs, or any method of communication. You may not use a computer, cell phone, or any electronic device or communication capability at any time while you are in the courtroom or during your deliberations.

During your breaks for meals or overnight if necessary, you may use these devices; however, you may not at any time use these devices to get or send information about this case.

This includes any information about a party, a witness, an attorney, any court officer, any news accounts about the case, any research on any topic that may be raised, or any topics that you think may be helpful in deciding the case, or any testimony presented by any witness.

During the trial, do not read, listen to, or watch any news reports about this case. This includes anything that may be in the newspapers, TV, Internet, or radio. You must not consider anything that you may have read or heard about this case outside of the courtroom, whether before or during the trial of this case.

After the case is submitted to you, you must discuss it only in the jury room with your fellow jurors. The attorneys and the parties in this case have been instructed not to talk to you, so if you see them coming in and out of the courthouse during breaks or overnight and they don't speak to you, they're not being rude. They are just following the Court's instruction.

It is important that you keep an open mind and not decide any issue in the case until all of the evidence has been presented, the parties have made their closing arguments, and I have instructed you on the law in this case.

It is your solemn responsibility to determine the guilt or innocence of the defendant, and your verdict must be based solely on the evidence as it is presented to you in this trial and on the law as I instruct you at the close of

the trial.

In just a moment, the Solicitor will make what is called an opening statement in which the Solicitor will explain to you what the issues in the case are, or at least what the Solicitor thinks the issues in this case are.

The attorney for the defense may also make an opening statement; although, they are not required to do so. What the attorneys tell you during their opening statements is not evidence in this case. It is only their contention as to what the issues are.

The evidence in this case will be presented to you by the testimony of the sworn witnesses from the witness stand and by any exhibits that are introduced during the trial of the case.

From time to time during the trial, you may hear one of the lawyers say something like, Your Honor, I have a matter of law, may we approach the bench? Or sometimes I might find it necessary to excuse you from the courtroom for a short while so that the attorneys and I can discuss a matter of law.

The reason for this is because you are

the judges of the facts in this case, and sometimes when I am discussing matters of law with the attorneys, it may be necessary for me to make a comment as to the facts in connection with ruling as to whether or not a particular law applies.

I'm not supposed to tell you what I think the facts are, so I will excuse you from the courtroom while these discussions take place so that in no way would you be influenced by what I might say or do in connection with the facts of the case.

In determining what the true facts are in this case, you must decide whether or not the testimony of witnesses is believable. It will be my responsibility to rule as a matter of law whether certain evidence and testimony is admissible or not. Once the testimony is admitted, whether or not you believe it is for you to determine.

In deciding whether to believe a witness, you have the right to consider the interest of any witness, the bias of any witness, the prejudice of any witness, the opportunity for the witness to have seen matters and things about which the witness may testify, and the way that the

witness acts on the witness stand.

You have the right to consider anything that is in the record that will help you evaluate the testimony of the witnesses. That means it is your duty to pay close attention to these witnesses, observe them, listen to them, and pay close attention to the attorneys and the Court.

Please don't let your thoughts wander, but give strict attention to the testimony in this case so at the end of the trial you'll be in a position to render a verdict under the oath that you have just took.

It will be the added duty of the foreperson, which I will appoint at a later time, to write the verdict on the verdict form. And I will explain that to you at a later time.

In order to observe everyone's rights, are there any objections or exceptions to the open instructions from either the State or defense?

MR. STEGALL: None from the State.

MR. SMALDONE: None from the defense.

THE COURT: Solicitor, you may proceed.

MS. SMITH: Seven grams of methamphetamine was the payout offered by this defendant, Gabrielle Davis, for the location and

the whereabouts of the victim in this case, Mark Connor. That was the amount of drugs that she was going to offer to the person who told her where Mark Connor was located.

She believed that Mark had stolen from her a motorcycle and some cash. And she was willing to pay to find him. She was going to pay in ice.

Throughout the testimony in this trial this week, you will hear from witnesses who she told about the hit she had called on Mark Connor. You will hear from witnesses who were with the defendant on the day of September 27th, 2015, that that hit was executed. And you will hear from witnesses that were with Mark Connor on the day of his murder.

You will hear that on the morning of September 27, 2015, this defendant found out where Mark was, and she along with four others loaded up in two separate vehicles and they drove to 512 McCrystal Circle in Moncks Corner.

When they arrived, they exited the vehicles and they ran up to the door. They kicked the door in. This defendant was armed with bear mace. The co-defendant Grayson Griffin was armed

with a firearm. Another co-defendant Matthew Grainger was armed with a firearm.

There were others there, Glen Lane, he was present; Melissa Friedman, she went along as well. They were all there. They kicked in the door at 512 McCrystal Circle looking for Markey.

Where's Markey? I know he's here, is what this defendant said when she entered the residence and sprayed bear mace all throughout the inside.

Ultimately, the Defendant Matthew Grainger went to the back bedroom and they found Mark. They found Mark and a scuffle ensued with Grainger. During the scuffle this defendant shouted, shoot him, shoot him. Grainger fired. He shot Mark Connor. As a result of that gunshot wound, Mark Connor died on September 27th, 2015.

The defendant in this case, Gabrielle Davis-Kocsis, is charged with murder, kidnapping, burglary in the first degree, and criminal conspiracy.

I want to briefly outline the elements of those charges so you know what to listen out for as the testimony is presented from the witness stand. Murder is the killing -- the unlawful

killing of another with malice aforethought.

Malice can be found in two ways; it can be expressed or implied. Express malice is saying it, saying that you want to kill somebody. Implied malice can be inferred through the complete and total disregard for the life of another.

Aforethought is simply having malice in your mind at the time that the crime was committed.

Burglary in the first degree: Burglary in the first degree occurs when you enter a dwelling, a residence, and you are either armed or you threaten to use a deadly weapon, or you actually use a deadly weapon.

You will hear in the testimony of this case that Mark Connor was shot with a firearm on September 27, 2015, after the door was kicked in to 512 McCrystal Circle.

Criminal conspiracy is when two or more individuals join together in agreement to commit an unlawful act.

Kidnapping: I know you've heard a lot about kidnapping on TV or in movies, and it can be picking somebody up, putting them in your car, and driving away. The laws of the state, the way the legislature has written the statute for kidnapping,

if somebody does not feel that they are free to leave, if they are seized or confined in their location, the law says they have been kidnapped.

This case isn't a typical murder case, and I want to talk to you about the theory of accomplice liability in the state of South Carolina. The reason that we are here today and the reason that the defendant is on trial for murder, for burglary in the first degree, for kidnapping and criminal conspiracy is because of this theory.

When two or more people join together and they have an agreement to commit a crime and they commit it together, each one of them are responsible for the acts of the other person just as if they committed that act themselves. It's called the hand of one is the hand of all.

Matthew Grainger shot Mark Connor on September 27, 2015. He shot him, but the hand of Matt Grainger is the hand of this defendant.

Even if we didn't believe that she is the whole reason that all of this happened; even if we didn't believe that she was the mastermind, the person who had put out a seven-gram meth hit on the defendant; even if she wasn't the one that found

out that Mark Connor was at 512 McCrystal Circle on September 27th, 2015, and loaded everybody up and went there; even if she wasn't the one that entered the residence and the back bedroom and said, shoot him, she's still culpable and legally responsible for this murder because the actions of one are the actions of this defendant. The hand of one is the hand of all.

Throughout this week you will hear testimony and you will hear evidence in this case, and at the end of the trial we will come back up here before you and we will stand in front of you and we will ask you to return a verdict of guilty; and we will ask you that because you will be firmly convinced that this defendant is guilty of murder, burglary in the first degree, kidnapping, and criminal conspiracy.

THE COURT: Counsel.

MR. SMALDONE: May it please the Court.

Ladies and gentlemen of the jury, good afternoon. My name is Grant Smaldone. I have the pleasure of representing Ms. Gabrielle Davis. She goes by Gabby.

Most opening statements I stand here and I tell you what to look out for, what to listen

for; and the easiest way to do that is to tell you where I agree with the State, where I agree with the government, the Solicitor's office, and where I disagree.

In this case, it's almost harder because I agree with a lot of what they say. And to you, I think that makes it harder because you have to know what exactly to look out for, right? I'm not arguing that -- you know, certainly I'm not arguing that that person died. Right? He's gone. It's very sad; no question.

I'm not arguing that drugs were involved. Throughout this case you are probably going to hear a different side of Berkeley County than what you're used to, a different side of humanity than what you're used to, a sadder side of humanity than what you were used to.

Ladies and gentlemen, when you will hear from a lot of witnesses in this case, and the one thing that ties almost all of them together is drugs. It's not just marijuana or pills or anything like that. It's meth, ice. It's a terrible drug. And you will hear about people staying up for days, weeks at a time. Call them tweakers. People that just live a sad life.

Gabby is one of those people, unfortunately. I'm not going to hide it. Gabby was a drug addict at this time. I think the State would agree with me on that one.

Gabby was a drug addict. And you will also hear that the person who got shot in this case did steal some money from Gabby. He stole some money and a motorcycle that Gabby was holding on to at the time. And that's all she had. So because of that, yeah, you'll hear that she was involved with some other people and they went to this house.

Go by the neighborhood in the McCrystal Circle -- you know, growing up I remember you go through certain neighborhoods and there was always that one house that doesn't fit in. There is always that one sort of run-down house in every neighborhood. And as you can probably guess, the house in question, that was the house.

Every house in that neighborhood is a decent house, and then there was this house. In the last few years we kind of have a slang term for that. We call it a trap house. Right? Trap house. And I don't want to belittle what's going on here, but this was a trap house. This was a drug house.

Gabby, with some other people, yeah, they went into the drug house. They went into the drug house to get the stuff that was taken from her. Once they went in that drug house though, things didn't go as planned. They went there to get the stuff back. It's not anyone else's stuff; her stuff.

They went there to maybe try to scare this guy, maybe try to get it back, scare him; but what happened, of course, wasn't what was supposed to happen. No one here, no one there wanted that young man dead. Right. The notion that this is some kind of El Chapo style execution, that's just wrong. That's why I completely disagree with the State.

You'll hear evidence about that and you'll hear that it wasn't an execution. This is meant for her to get her stuff back. Because of the action of one person, Matt Grainger, it went awry. It wasn't a burglary. It wasn't a kidnapping. And the only murderer is Mr. Grainger.

State told you a little bit about the law in this case. And I want you all to pay close attention to that because I want justice, they want justice; I want what is right. I want you to apply

that law.

You hear the hand of one is the hand of all. They kind of throw that in just about everything, and you'll hear more about that later, but I want you to ask yourself, was this intended? Was this the natural and probable consequence of them getting some stuff back? Did Gabby have a gun? Ask yourself those questions.

Every drug operation -- you will hear evidence about this. Every drug operation has a leader and a whole lot of followers. Some of them have a fall guy.

At the end of this case, I'm going to ask you to go back there and decide if the State has proven their case. And part of that is, do you think that Gabby is some drug leader, leader of some drug operation? Did she set this up?

You might hear some people say she set it up. Ask yourself, who is saying that? What is their motive to say that? The truth will come out. That's why the judge has already instructed you and we'll instruct you, don't talk about this case amongst yourselves until it's over. And as part of the oath as a jury that you took, you're not to make a decision about this case until it's all

over.

And, listen, I'm a person. Right. Everyone is a person. That's hard to do. That's really hard to do because you're all people. But when you took that oath that the clerk gave you, you became more than people. You became jurors.

And as a juror, I ask you to keep an open mind throughout the case, listen to the evidence, and then once you've heard it all, once you've heard openings, closings, witnesses, the judge is going to instruct you on the law; I'm going to ask you to go back there and weigh it all out and ask yourself if the State has proven their case.

And then I'm going to ask you to find Ms. Davis is not guilty of everything in this case. Not guilty of murder, not guilty of kidnapping, not guilty of burglary. This is something of -- a thing that just did not go as planned, and it's not her fault.

Ladies and gentlemen, Ms. Davis is not guilty. And I thank you for your time.

THE COURT: You may call your first witness.

MS. SMITH: Thank you, Your Honor. The

State calls Peggy Brown.

PEGGY BROWN,

being first duly sworn, testified as follows:

THE CLERK: Please have a seat. State your full name for the record, and spell your last name.

THE WITNESS: Peggy Louise Brown, B-R-O-W-N.

THE COURT: Your witness.

MS. SMITH: Thank you, Judge.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Afternoon, Ms. Brown.

A. Afternoon.

Q. Where are you employed?

A. Berkeley County Communications, 911 Center.

Q. How long have you been employed with Berkeley County?

A. Two years.

Q. What is your position?

A. I'm the administrative assistant for -- I handle the custodial records.

Q. You handle custodial records?

A. Uh-huh.

Q. What are the duties of your job in handling those custodial records?

A. I -- anyone that comes in that wants or requests a FOIA, a Freedom of Information Act, I pull the documents for them from our files, pull the recordings if they request it.

Q. Did your office receive a request to pull a 911 recording in relation to this case?

A. Yes.

Q. Was your office able to locate a 911 call?

A. Yes.

Q. Did you make a copy of that recorded call?

A. I did not.

Q. Did that happen before you took over?

A. Yes.

MS. SMITH: May I approach the witness?

THE COURT: You may.

BY MS. SMITH:

Q. Ms. Brown, I'm going to show you a CD that's been marked as State's Exhibit 1. Can you tell me if you recognize this?

A. I do.

Q. How are you able to recognize that?

A. I initialed it, I listened to it, and I verified it against the documents we have.

Q. When you reviewed it and verified it, was it a complete full copy of the recording in the 911 -- the Berkeley County 911 database?

A. Yes.

Q. There have been no additions or deletions?

A. No.

MS. SMITH: Judge, at this time I move to admit and publish State's Exhibit 1.

THE COURT: Over your objection?

MR. SMALDONE: Your Honor, I renew my objection under Rule 403.

THE COURT: Yes, sir. The Court's ruling is the same. It's admitted.

(PLF. EXH. 1 in evidence.)

MS. SMITH: May I publish, Judge?

THE COURT: You may.

(911 call played in open court.)

MS. SMITH: Thank you. The State has no further questions.

THE COURT: Any cross-examination?

MR. SMALDONE: None for this witness.

THE COURT: You may step down. Thank

you.

You may call your next witness.

MS. SMITH: Thank you, Judge. State calls Erica Haynes.

ERIKA HAYNES,

being first duly sworn, testified as follows:

THE CLERK: Please have a seat. State your full name for the record, and spell your last name.

THE WITNESS: Erika Haynes, H-A-Y-N-E-S.

THE COURT: Your witness.

MS. SMITH: Thank you, Judge.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Afternoon, Ms. Haynes.

A. Hey.

Q. What was your occupation prior to being in custody?

A. I did construction, painting and stuff.

Q. Okay. Do you -- did you live in Berkeley County before you were taken into custody?

A. Yeah. I lived here my whole life.

Q. Do you know Mark Connor?

A. Yes, ma'am.

Q. How do you know Mark Connor?
A. Me and him dated off and on for like 15 years.
Q. What was your relationship with Mark in September of 2015?
A. We were living together. We were dating. We had been back together for like four years at that point.
Q. Okay. Do you know Gabby Davis?
A. Yes.
Q. How do you know Gabby?
A. I met her through my cousin Gray Edgewater back in May of 2015.
Q. Okay. And were you riding with her on September 20th of 2015?
A. Yes, ma'am.
Q. Why were you riding with her?
A. We actually came to Berkeley County jail to put money on Ronnie Shepherd's books, and then we went to Summer Creek for her to go make a serve.
Q. What is serve?
A. To sell some ice, which is meth.
Q. Okay. And so in Summer Creek you were going to make a serve. Were you going to make a

serve?

A. No, Gabby was.

Q. And why were you with her that day?

A. Apparently, she was looking for Mark because she said Mark stole $1500 and a stolen motorcycle from her.

Q. And what happened after she told you that information?

A. While we were in Summer Creek, she put a hit on him with Toby Long that she would pay seven grams to who could ever find him, get him, or kill him.

Q. Did Gabby say anything else about Mark on that ride?

A. She wanted to know where his mom and all lived, but I didn't tell her.

Q. Did his mom live near where you were?

A. Yeah, she lived in Summer Creek.

Q. Do you know why she was asking?

A. She was trying to find Mark.

Q. Did you do anything after you learned that Gabby was trying to find mark?

A. I texted Mark on Facebook on Messenger.

MS. SMITH: May I approach?

THE COURT: You may.

BY MS. SMITH:

Q. I'm showing you what was marked for identification as State's Exhibit 19. Do you recognize this document?

A. Yes, ma'am.

Q. What is that document?

A. It's the Facebook Messenger from me to Mark.

Q. Did you send that message to Mark?

A. Yes, ma'am.

Q. Is it a fair and accurate representation of the message that you sent to Mark --

A. Yes, ma'am.

Q. -- on September 21, 2015?

A. Yes, it's the exact message.

MS. SMITH: Judge, at this time the State would move to admit Exhibit 19 into evidence.

THE COURT: Any objection?

MR. SMALDONE: I would object to hearsay, Your Honor.

THE COURT: She's authenticated that she sent the message. I will allow it.

MS. SMITH: Judge, may I publish?

THE COURT: You may.

(PLF. EXH. 19, Text Message, in evidence.)

BY MS. SMITH:

Q. Ms. Haynes, will you please read the first messages that you sent to Mark Connor on September 21, 2015?

A. The first one said, oh, Gabby's looking for you and wanting my help, but I don't need to think on that. She's dead on that shit.

And the second one says, baby, please let me know you're good. Gabby is putting a seven-gram hit on you, baby; please be careful. I love you bunches.

Q. Would you recognize the person that you heard say she would pay seven grams of ice to find, get, or kill Mark Connor, if you saw her today?

A. Yes, ma'am.

Q. Do you see her today in the courtroom?

A. Yes, ma'am.

Q. Where is she?

A. Right there in the pink shirt.

Q. And who is that person?

A. That's Gabby.

MS. SMITH: Judge, may the record please reflect that the witness identified the

defendant?

THE COURT: Yes, ma'am.

MS. SMITH: Ms. Haynes, the State has no further questions for you at this time.

THE COURT: Cross-examination?

MR. SMALDONE: May it please the Court.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. Good afternoon.

A. Good afternoon.

Q. So you were -- it's your testimony that you were dating Mark at this time?

A. Yes, sir.

Q. And you all had been together how long?

A. We dated since I was like 15, so we went back and forth, but the final time we were together like four years.

Q. Okay. And you knew Gabby for how long?

A. Since May of 2015.

Q. May of 2015. And you knew that Gabby and Mark were friends at one point?

A. We were all friends at one point.

Q. All friends. Okay. And Mark had actually -- at some point Mark had lived with

Gabby, right?

A. No.

Q. Okay.

A. Me and him got in an argument and he went to her house, but he never lived with her.

Q. Okay. So he stayed at her house at least one night, right?

A. Yes.

Q. So when you all got into an argument, he would go see Gabby?

A. That was the first time.

Q. Okay. And when was that?

A. On -- I would say like the 19th, or so. It was that Saturday, whatever Saturday was, because Friday night me and Mark had his kids at my house.

And my mom and his ex-wife came and picked up all the kids and then he left with Gabby. Or Gabby picked him up walking.

Q. All right. When you say the 19th, is that September 19th?

A. I'm guessing. It was that Saturday of 2015.

Q. Okay. And so earlier that day you all were in a car, right?

A. Yes.
Q. And it was your car or Gabby's car?
A. Gabby was driving.
Q. Gabby was driving?
A. Yeah.
Q. And you all went to the jail?
A. Yes.
Q. To go do something?
A. Yes.
Q. And on the way back, when did you -- when did you hear her say something about Mark?
A. We stopped at the Hot Spot on College Park, and that's when she started telling me and then we went from there to Summer Creek, which is like a mile and a half down the street.
Q. Okay. Summer Creek, and that was -- is that near where you live?
A. No.
Q. Okay.
A. That's near Mark's mom's house.
Q. Gabby picked you up?
A. Yeah.
MR. SMALDONE: Beg the Court's indulgence. I need to find --
Nothing further from this witness.

THE COURT: Any redirect?

MS. SMITH: No redirect.

THE COURT: You may step down, ma'am. Thank you.

You may call your next witness.

MS. SMITH: State calls Alexis Murray.

ALEXIS MURRAY,

being first duly sworn, testified as follows:

THE CLERK: Please have a seat. State your full name for the record, and spell your last name.

THE WITNESS: Alexis Nicole Murray, M-U-R-R-A-Y.

THE COURT: Your witness.

MS. SMITH: Thank you, Judge.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Afternoon, Alexis.

A. Afternoon.

Q. Do you go by Alexis or do you go by another name?

A. Nicky.

Q. Is that short for your middle name?

A. Yes, ma'am.

Q. What was your occupation prior to being

taken into custody?

A. Landscaping.

Q. And do you know Mark Connor?

A. Yes, ma'am.

Q. How do you know Mark?

A. Since middle school he was a friend, long-time friend.

Q. Okay. And do you know who he was dating in September of 2015?

A. Yes, ma'am.

Q. Who was that?

A. Erika Haynes.

Q. Did you and Mark ever date or were you strictly friends?

A. Just friends.

Q. Okay. And did you see Mark Connor on the evening of September 26, 2015, going into the morning of September 27, 2015?

A. Yes, ma'am.

Q. When did you first see him that night, if you can explain that for us?

A. My -- I had a truck stolen from me, a Yukon, and I posted on Facebook that it was stolen. And I got a phone call from a friend, Richard Curtis, stating that he had a surprise for me. I

needed to come to his mom's house in Windwood.

I got my mom -- me and my mom and my little girl were riding around shopping in North Charleston that day. I went -- when he called, I asked my mom to take me over there and drop me off at Rick's mom's house.

We were over there hanging out, and Rick's mom come outside and she was yelling, you know, we needed to leave, or whatever. And I guess Rick -- because we were getting too loud. And Rick said, you know, just give us a minute, or whatever.

And then a little bit after dark, Mark come around the corner and he was in my Yukon. He had bought it and -- seen that it had been stolen, so he wanted to return it to me. And he cleaned it up for me and everything. And that's how we ended up together from there.

Q. Did you stay together that night?

A. Uh-huh.

Q. Did you stay at Richard Curtis's mom's house that night?

A. No, ma'am.

Q. Where did you go?

A. We went to Miss Rose's house.

Q. Where is Miss Rose's house?

A. It's in Crystal Shores in Windwood off of, I think, Crystal.

Q. Is Richard Curtis's mom's house near Miss Rose's?

A. Yes, ma'am.

Q. How close is that?

A. It's probably two streets over.

Q. Okay. So it was just right down the road?

A. Yes, ma'am.

Q. You were moving locations?

A. Yes, ma'am.

Q. Okay. Around what time did you get to Miss Rose's house?

A. I'm not sure.

Q. Was it after dark?

A. Oh, yes, ma'am.

Q. Okay. And when you got to Miss Rose's house that night, who all was present in the house?

A. When we got there it was me, Mark, Richard Curtis, Brandon Varner, Nick Varner, Whitney Chance, Miss Rose, Tommy, and that was it.

Q. Did you see Bird?

A. Yes.

Q. Who is --

A. Brandon Varner.

Q. When you got to Miss Rose's, what did you do?

A. We went to the back bedroom where Mark said that he was staying. Him and Erika I guess had been fighting.

Q. Who is we? Who went to the back bedroom?

A. Me and Richard Curtis, Mark Connor and Tom.

Q. When you were in that back bedroom, what did you all do?

A. Rick went into the bathroom, me and Mark sat on the bed, and Tommy sat on the tip of the bed. Mark had asked Rick to go into the bathroom and roll a blunt, and we were going to roll a bowl -- or smoke some meth because I had asked if he had anything earlier that day. And he said that -- when we got there, that's why we went into the room for.

He went into the bathroom and started breaking up the weed on the counter, and then me and Mark started talking. And he started telling me, you know, something wasn't right, that he didn't feel right.

I asked him, what's wrong? What's wrong? I could tell something on his face was bothering him. And he said he needed to talk to me, and talk to somebody. And I said, you can talk.

And he said that --

MR. SMALDONE: Objection.

THE COURT: Basis of the objection?

MR. SMALDONE: Hearsay.

THE COURT: Any exception to the hearsay rule?

MS. SMITH: We believe that it is a statement against interest and also the present sense impression exception.

THE COURT: Counsel, please approach.

(Bench conference)

THE COURT: You may proceed.

MS. SMITH: Thank you, Your Honor.

BY MS. SMITH:

Q. You may continue, Nicky.

A. Mark proceeded to tell me that -- you know, he got upset and started crying and proceeded to tell me that he wasn't happy and wanted to leave. You know, he was leaving Erika, that he'd heard that there was a hit on him, that Gabby had a

hit on him --

MR. SMALDONE: Objection.

THE COURT: Yes, sir, your objection is noted for the record.

MR. SMALDONE: Okay.

BY MS. SMITH:

Q. You may continue.

A. That Gabby had a bullet for him. And something -- it was about some -- some meth had been stolen, some money, like $1100 or something, and a stolen -- stolen motorcycle.

Q. So that night while you were in there, you smoked weed with Mark?

A. Yes.

Q. And Rick and Tommy?

A. Yes.

Q. Did you end up smoking meth?

A. No.

Q. Not that night?

A. Huh-uh.

Q. Not with Mark, not with Rick?

A. No. I know Rick -- Rick had given Mark two pills. They were clonazepam, and Mark had ended up falling -- after we had the conversation, he had fallen asleep. I ended up going to sleep

after the conversation, you know.

Q. After you fell asleep, what time did you wake up the next morning?

A. Not until all the commotion in the living room.

Q. Can you please --

A. And it was the first time I had set -- I had set an alarm because Mark -- for Mark getting my vehicle back, purchasing my vehicle for $600, I told him that -- he really, really liked the truck.

So I told him, I said, I have a Mustang, a Ford Mustang that I needed some work on. He was going to do the work on the Mustang. And he said, well, why don't you set the alarm clock for 5:30. We can go and pick that up.

It was in Jedburg at a home that I had stayed in in Pine Hill Acres. He said, I've got a truck and a trailer, and we can go get it and pull it to Miss Rose's, and I can work on that and work something out in payments.

It was to help him out for helping me, you know.

Q. So you set an alarm --

A. Yes, ma'am. The alarm went off and he kind of nudged at me and said, let's go. Let's get

up. And neither one of us kind of -- we kind of blew it off and fell back asleep. A little bit after that, I don't -- I really couldn't tell you what time it was.

I heard a commotion in the living room, which it wasn't -- it wasn't nothing out of the ordinary at Miss Rose's. I thought somebody was arguing or fighting, moving around in the living room.

And then I went and -- I thought nothing of it, but then I heard a loud -- a louder noise, and then I heard, where the fuck is Mark? Where is Markey? Where is Markey? We know he's in there. We know he's in there, like screaming, a female voice.

I -- Rick had rolled onto the floor because he was at the bottom of the bed. Rick had rolled onto the floor and Mark kind of rolled off the bed and into the bathroom.

There was a wall that had been taken down in Miss Rose's -- in the bedroom that we were in so you could go directly into the bathroom. It was like a little space, you know, in the -- from the mirror to where you could see like where the person -- where he was standing at.

I was on the corner of the bed. The door come open. First, someone -- a guy with the gun, and he come over -- he come over to the side of the bed I was on and had the gun in my face and screaming where is -- Gabby come in screaming, where the fuck is Mark at? We know Mark's here. Where the fuck is Mark?

The guy didn't ever say anything. He just looked at me and was holding the gun in my face the whole time. And I guess when she -- she's screaming and, I guess, he looked up or something and must have seen -- you could see the mirror from the side of the bed.

And he must have seen Mark, and he kind of like went around. And Gabby was spraying mace or pepper spray, or something, in the room. And he went over to Mark and Mark started swinging. He had his head down the whole time.

Mark was hitting him in the back of the head, and Gabby screams, shoot that N-I-G-G-A, and -- shoot him. The gun went off.

Mark says, I'm hit, Nicky. I'm hit. Fell over in the bathtub.

Q. What did Gabby and the guy do after the gunshot went off?

A. They left, I guess. I wasn't really -- I wasn't really paying attention. I kind of went over to Mark and --

Q. I'm going to back up for a second. You -- you are able to give a name for the female that came into the room?

A. Correct.

Q. Do you know the male who came in the room?

A. I do not.

Q. Had you ever seen him before that day?

A. No, ma'am.

Q. And you identified the female as Gabby?

A. Yes, ma'am.

Q. Who is Gabby?

A. Gabby -- I've seen her before at Miss Rose's house several times, probably over a period of three years off and on. I mean --

Q. Do you know her last name?

A. I know it's Gabby Davis.

Q. And at that point in time, in September of 2015, how long had you known her?

A. Probably about three years.

Q. How were you able -- excuse me. I'll let you finish.

A. I've spoken with her and I've seen her and I just -- I mean, I just know who she is from Miss Rose's house.

Q. How were you able to recognize her?

A. Her hair and voice.

Q. So you know her by sight and sound?

A. Uh-huh.

Q. And when -- you said when the guy came into the bedroom he had a firearm pointed at you?

A. Uh-huh.

Q. Where was it pointed?

A. In my face. Like in my face to my forehead.

Q. When this guy that you had never seen before and this person that you know to be Gabby came into the room --

A. Yes, ma'am.

Q. -- did you feel like you were free to leave?

A. No, ma'am.

Q. After the gunshot went off, what did you do next?

A. Got up off the bed, went over to Mark, and I grabbed -- I grabbed him up out of the bathtub and drug him probably halfway to the living

room. And I was screaming for somebody to help me get him out of there, because I couldn't breathe and he couldn't breathe because the spray in there was so strong.

It was burning; it was hurting to breathe. And then Nick proceeded to help me from the point that I had stopped at directly to the porch.

Q. Who is Nick?

A. Nick Varner.

Q. When you and Nick helped carry Mark out to the porch, did you see anything on Mark's face?

A. Yes, ma'am.

Q. Do you remember calling 911 that day?

A. Very vaguely. Very vaguely.

Q. After Mark was moved out to the porch, what did you do next?

A. I was looking for -- I was leaning down and I was asking Nick to hurry and get something because I was looking for a gunshot wound, like any entry on his shirt or pants or anything. I couldn't see anything.

So I pulled his shirt up and pulled his pants down, and there was one -- an entry wound on his hip. I flipped him over and I didn't see any

exit wound. I stuck my hands kind of -- my fingers down in the bullet wound and Nicky handed me a blanket and I was holding down on it.

And I proceeded to give mouth-to-mouth to Mark to see if he was breathing. And I'd breathe and he wouldn't breathe out. And I just -- I was trying all I could do to get him to breathe.

And then I think pretty much the ambulance and the detectives showed up and I gave my statement, and that was it.

MS. SMITH: May I approach?

THE COURT: You may.

BY MS. SMITH:

Q. Nicky, I'm going to show you some documents that are marked for identification purposes, State's Exhibits 2 through 9. Please flip through these and tell me if you recognize the content.

A. Yes, ma'am. Yes, ma'am.

Q. I will let you flip through all of them. Do you recognize those?

A. Yes, ma'am.

Q. What are those?

A. That's the bedroom and the bathroom and entryway to Rose's house -- in Rose's house.

Q. Do these photos fairly and accurately represent Miss Rose's house where you were on September 27, 2015?

A. Yes, ma'am.

MS. SMITH: Judge, at this time, I would move to admit State's Exhibits 2 through 9 and publish for the jury.

THE COURT: Any objection?

MR. SMALDONE: No objection.

THE COURT: All right. They're in.

(PLF. EXH. 2 - 9 in evidence.)

BY MS. SMITH:

Q. I'm going to publish this photo, State's 2. And then if you will turn around, or you can look at the pictures here actually, and if you could explain to the jury what is in these photographs.

A. That is the doorway -- the doorway to Miss Rose's house, the porch, and the blanket that I used to cover up Mark.

Q. If you want to use the pointer, it's this red button here. (Indicating)

State's Exhibit 3.

A. This is the door to Miss Rose's house and this is the porch and that's the blanket.

Q. What did you use that blanket for?
A. To press down on the wound, the gunshot.
Q. State's 3, what is this picture showing? I think that chair, if you turn the other way, it's actually --
A. This way? (Indicating)
Q. Yes. What does this show?
A. This is Miss Rose's living room.
Q. Okay.
A. This is the bathroom where Mark Connor was shot, and this is the bedroom.
Q. The bedroom that what?
A. That we were -- that we were in the bedroom that Gabby come in.
Q. Okay. State's 4, what is that a photo of?
A. That is the doorway to the room that we were in. And this is Miss Rose's living room and her bathroom and her kitchen.
Q. Is that the bathroom that was connected to the room that you and Mark had slept in on the night of September 26th into the morning of September 27th?
A. Yes, ma'am.

Q. State's 5, what is that a photo of?

A. That is the entry, the doorway, the doorway to the room that we were in, and this is the bathroom.

Q. Can you show where the bed would be? Is the bed in this photo?

A. No, ma'am.

Q. Okay. Where would it be in that room?

A. More towards this way, behind this wall. (Indicating)

Q. And this is State's 6. What is this a photo of?

A. This is the bedroom, this is the wall that was cut out, and this is the bathroom where Mark was shot.

Q. Okay. Is that the bathtub that you picked him up out of?

A. Yes, ma'am.

Q. And then is this front door the entry back into the living room?

A. The entryway back to the living room, yes, ma'am.

Q. State's 7, what is this a photo of?

A. This is the bathtub where I picked him up from. This is the entryway back into the

bedroom and this is the bed.

Q. Is that the bed that you and Mark and Rick slept on, on the night of September 26th into the morning of September 27th?

A. And Tommy, yes, ma'am.

Q. Can you see the location that you were laying on on that bed?

A. Yes, ma'am.

Q. In this picture, where were you?

A. Well, not really.

Q. Okay.

A. I was down more towards the bottom of the bed right here. (Indicating)

Q. And this is State's 8. What is this a photo of?

A. Headboard to the bed that we slept on.

Q. Okay. And State's 9, what is this?

A. That is the bed and bedroom that we were in and we slept on.

Q. Where were you at on this bed when the guy that you were unable to recognize and the person that you were able to identify as Gabby came into the bedroom on the morning of September 27, 2015?

A. Right here. (Indicating)

Q. Okay. Where was Mark?

A. Well, when they come in, we were both kind of laying like longwise, like this way. And then when they come in, I sat up and sat like right here. And Mark rolled off and went into the bathroom. (Indicating)

Q. How far were you from this bathroom? What is the approximate distance?

A. Maybe ten feet.

Q. Okay. I will take that clicker back.

Nicky, you testified that you and Mark were in that bedroom. Was there anybody else in that bedroom when people entered it on the morning of September 27th?

A. Yes, ma'am.

Q. Who was in that room?

A. Tom and Richard Curtis.

Q. Was Tommy present when those two people came into the room?

A. I'm not sure. That happened so quick and I was asleep, but I know somebody ran, and I know Rick rolled off onto the floor. Maybe it was Rick that ran out the door, but it was just a lot of commotion going on.

Q. You're not sure?

A. Right.

Q. Okay. You testified that you were able to recognize the female that came into the bedroom as Gabby; is that correct?

A. Yes.

Q. And you testified that you recognized her by sight and sound?

A. Yes.

Q. Would you recognize that person that you saw enter that bedroom on the morning of September 27th if you saw them today?

A. Yes.

Q. Do you see that person that you identified as Gabby in the courtroom today?

A. Yes.

Q. And can you please point and describe what she's wearing.

A. She's wearing pink and she has flowers on it. (Indicating)

MS. SMITH: Judge, may the record reflect that this witness has identified the defendant?

THE COURT: Yes, ma'am.

MS. SMITH: Beg the Court's indulgence.

BY MS. SMITH:

Q. Just a couple more questions. I asked you earlier when you pulled him out to the porch if you saw anything on his face?

A. Yes, ma'am.

Q. What was that that you saw on his face?

A. It's like orange -- it was all over both of us. It was orange, like, wet. It -- it was like wet. It was around his nose, his lips. It was, I'm guessing, the pepper spray because it was burning when I was giving him mouth-to-mouth. It was -- it was just orange.

Q. Okay. And, lastly, you testified that you were able to recognize the person that you've identified as the defendant by sight and by sound. What was she wearing when she entered that room?

A. A baseball hat and, like, something over her face.

Q. How were you able to recognize her with a hat on and something covering her face?

A. Her hair and her voice.

Q. And you have heard her voice before?

A. Uh-huh.

Q. You know her voice?

A. Yes, ma'am.

MS. SMITH: I don't have any further

questions. Thank you.

THE COURT: Cross-examination?

MR. SMALDONE: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. All right. Ms. Murray, good afternoon.

A. Afternoon.

Q. I don't believe we've met; my name is Grant Smaldone. I'm going to ask you some questions. I would ask that we don't talk over each other. Okay?

A. Yes, sir.

Q. And make sure that you give a yes or no, or whatever answer, rather than shake your head, so the court reporter can take down everything that you say.

A. Yes, sir.

Q. Is that okay?

A. Sure.

Q. You said that you have known Gabby for how long?

A. I wouldn't say I know her because I mean, like, I don't hang out with her; but in passing probably about three years off and on at Miss Rose's house.

Q. Okay. So you've seen her at Miss Rose's house too, right?

A. Uh-huh.

Q. And you've been to Miss Rose's house a good bit of times?

A. Yes, sir.

Q. And Miss Rose's house, just so we're all clear, that's where this happened?

A. Yes, sir.

Q. Okay. And you have seen a lot of people at Miss Rose's house, a lot of other folks?

A. I wouldn't say a lot of other folks, because I don't hang out there much, but when I'm there, there's different people.

Q. Well, just that night there was, what, six people there?

A. More than that.

Q. Okay. So that's -- maybe we're different, but you'd say that's a fair amount of people, right?

A. Sure.

Q. And tell me about Miss Rose's house. Is that -- you smoked meth there before, right?

A. Yes, sir.

Q. Okay. And you've seen other people

smoke meth there, right?

A. Sure. Yes.

Q. Fair to say it's kind of a trap house?

A. Yes, sir.

Q. Okay. And before this, it's your testimony that you didn't -- you didn't do any meth that night?

A. No, sir.

Q. You smoked some weed at what time?

A. I'm not sure.

Q. You smoked weed earlier that night, right?

A. Sure.

Q. And you had done meth the day before, correct?

A. Yes, sir.

Q. All right. And probably the day before, right?

A. No, sir.

Q. Okay. The day before, but not the day before that?

A. Right.

Q. Okay. And fair to say you probably hadn't slept in a good bit of time, right?

A. Not that much time.

Q. And that's okay. All right. So you get to Miss Rose's house about, what, 9:00 that night; is that right?

A. It might have been a little bit later because I know the shops didn't close at the shopping center until about nine.

Q. And after that, you get to Miss Rose's house?

A. I'm not sure what time it was.

Q. Okay. And this was -- because this was about four years ago, right?

A. Yes, sir.

Q. Okay. So I want to talk a little bit about what happened before this. You said that Mark came and met you with a new car; is that right?

A. Not a new car. A car that had been stolen from me and he purchased it.

Q. So he bought a car for you, right?

A. No. He had bought my vehicle that was stolen and wanted to return it to me.

Q. Right. Right.

A. Correct.

Q. It's your testimony that he said that he bought it, right?

A. Correct, but he didn't -- he didn't know.

Q. Okay. And was that the same day or the day before?

A. I'm not sure when he had purchased it. It had been gone for a week.

Q. Okay. You had a car stolen for a week, he gets it back, buys it, and goes to Miss Rose's house that night. So you fall asleep at what time? Three in the morning?

A. I'm not sure, but we had fallen asleep.

Q. Okay. And after all that, you see -- you hear the -- were you woken up by the commotion at the door?

A. Yes, sir.

Q. You wake up and you see two people?

A. Not as soon as I woke up.

Q. Okay. When you see people come in, how many people did you see in that house?

A. When the door come open, one male and one female.

Q. Okay. One male and one female, you see them. Mark is in the bed at that time?

A. He had got up when he heard the commotion and when he heard them screaming for

Mark.

Q. So he got up and went to the bathroom, right?

A. Yes, sir.

Q. And that's located inside that room?

A. Yes, sir.

Q. After Mark is shot, you drag him out of the bathtub?

A. I picked him -- yes. I -- I picked him up, and he was leaning forward, and I went backwards out of the room with him.

Q. And put him on the front porch?

A. Yes, sir.

Q. And at some point 911 is called; isn't that right?

A. Yes.

Q. And were you the one that called 911?

A. Yes, sir.

Q. Okay. Fair to say that you called 911 not right after this, did you?

A. Yes, right -- as soon as I got him on the porch, I'm pretty sure. I don't really know. I was worried about Mark, and there was other people there that I would have hoped would be on the telephone with 911 beforehand.

Q. All right. But they weren't?
A. I'm not sure. I made a call because that's -- he wasn't breathing.
Q. Okay. So it's your testimony that you didn't wait about 20 or 30 minutes to call 911?
A. No.
Q. And you didn't wait until everyone brought the meth-making supplies out of the house?
A. No.
Q. And you've been convicted; obviously, you are in jail right now?
A. Yes.
Q. And you're at Hill-Finklea, next door?
A. Yes, sir.
Q. And what are you there for?
A. For a warrant.
Q. Bench warrant?
A. Failure to appear and stole -- possession of a stolen vehicle and possession.
THE COURT: Ms. Murray, could you scoot back from the microphone just a tad?
THE WITNESS: Yes, ma'am.
BY MR. SMALDONE:
Q. And that's not your first go-round with the law, is it?

A. No, sir.

Q. You've had forgery, right?

A. Forgery with a $0 amount, yes, sir.

MR. SMALDONE: Beg the Court's indulgence.

BY MR. SMALDONE:

Q. The same day that -- either the same day or the next day you talked to law enforcement about this?

A. That morning.

Q. That morning. And that morning did you go to the sheriff's office or did they come to you?

A. They came to me.

Q. Okay. And you wrote -- you handwrote a statement?

A. Yes, sir.

MR. SMALDONE: May I approach the witness, Your Honor?

THE COURT: Yes.

BY MR. SMALDONE:

Q. And this is your handwriting, right?

A. Yes.

Q. All right. Does this look like the statement you made? I'm sorry --

MR. SMALDONE: Beg the Court's

indulgence. Somehow I got out of order. Let me make sure that we're all --

BY MR. SMALDONE:

Q. This is the statement that you wrote, right?

A. Yes, sir.

Q. And -- I'll keep that there.

Nowhere in that statement you said anything about Ms. Davis saying shoot that N-I-G-G-A; is that right?

A. At the time -- it does not say that word. It just says shoot him.

Q. Okay. So three and a half years later you changed it up to be more specific?

A. Not changed it up. I've been sober and had dreams -- vivid dreams over and over and over again, and I can hear her voice.

Q. Okay. So you're remembering a dream, or you're remembering what happened?

A. I remember what happened.

Q. But you've dreamt about it since?

A. Oh, yes, sir.

MR. SMALDONE: Beg the Court's indulgence?

No further questions.

THE COURT: Any redirect?

MS. SMITH: Briefly, Judge.

REDIRECT EXAMINATION

BY MS. SMITH:

Q. Nicky, how soon after you watched your friend die did you write the statement that you gave to law enforcement?

A. Like, they hadn't put him in the EMS yet. It was -- I'm not sure exactly how long it was.

Q. Was it very soon thereafter?

A. Yes, ma'am.

Q. Does it surprise you that you may have left out part of what you observed?

A. Not at all. I couldn't even hardly speak.

Q. Were you still suffering from exposure to what you testified to be pepper spray?

A. Yes, ma'am; I hadn't even rinsed off.

Q. Nicky, did you invite the person that you didn't recognize that put a gun in your face and Gabby to Miss Rose's house that day?

A. No, sir.

Q. Did you invite somebody that was armed and masked into 512 McCrystal Circle that day?

A. No.

Q. Did you know of any reason that the defendant and the person that you didn't recognize had reason to be in that house that morning?

A. Other than from what me and Mark spoke of earlier about Gabby having the bullet for him, no, ma'am.

MS. SMITH: Thank you.

THE COURT: You may step down, ma'am. Thank you.

THE WITNESS: Thank you.

THE COURT: Ladies and gentlemen, are you okay? Do you want a brief restroom break?

MS. SMITH: May we approach?

THE COURT: Certainly.

(Bench conference)

THE COURT: We're going to take a brief recess. If you'd go to your jury room. Please remember my instructions not to discuss the case with anyone.

(Jury out, 3:14 p.m.)

THE COURT: Counsel, you're having an issue with a witness.

MR. STEGALL: Our next witness was released from Hill-Finklea, next door, this

morning. He knew he was supposed to be here today. My investigator went by his house 30 minutes ago; he was not there. He left a card.

We are attempting to call some witnesses that were originally scheduled for tomorrow to see if we can get a few here.

THE COURT: Was he released on bond?

MR. STEGALL: I don't know.

MS. SMITH: His charge may have been dismissed.

MR. STEGALL: Correct.

THE COURT: I'm just trying to think outside of the box. Do you want to contact his bondsman and find out what the bond would be?

Are you prepared to go forward with some other witnesses out of order?

MR. STEGALL: We're making some phone calls now. My investigator is calling them right now, we're going to try to. We don't want to -- we would like to go as long as we can today. We don't want to take Your Honor's time away.

THE COURT: Let's take about a 10- or 15-minute break and then give me an update.

MR. STEGALL: Will do. Thank you, Your Honor.

THE COURT: We'll be at recess.
(A recess transpired.)
THE COURT: Everyone ready to proceed?
MR. STEGALL: The State is ready.
MR. SMALDONE: The defense is ready.
THE COURT: Let's have the jury, please.
(Jury in, 3:38 p.m.)
THE COURT: Welcome back, ladies and gentlemen. We are ready to proceed with the trial of this case. Call the next witness.
MR. STEGALL: The State calls Nicholas Varner.

NICHOLAS VARNER,

being first duly sworn, testified as follows:
THE CLERK: Please have a seat. State your full name for the record, and spell your last name.
THE WITNESS: Nicholas Varner, V-A-R-N-E-R.
THE COURT REPORTER: Could you spell your first name, too, please?
THE WITNESS: N-I-C-H-O-L-A-S.

DIRECT EXAMINATION

BY MR. STEGALL:

Q. Mr. Varner, you go by Nicholas or Nick?
A. Nick.
Q. Okay. And, Nick, where are you currently employed?
A. I own my own business, Varner's A1 Construction.
Q. When were you originally told you would be testifying this week?
A. Tomorrow, but I got off early today. They asked if I could come down.
Q. How -- when did somebody give you a call and ask you to be up here?
A. Probably about 30 or 45 minutes ago.
Q. Coming from work?
A. I was in the Moncks Corner area already.
Q. Is that why you're --
A. I was coming to check out another job, Stoney Landing.
Q. Okay. Where are you from?
A. Moncks Corner.
Q. Okay. How do you know the defendant?
A. Through just meeting up, doing, you know, what we did back then; drug trading, dealing, and all that.

Q. Okay. How long have you known her?
A. Maybe six months to a year, or something like that maybe.
Q. Okay. In 2015, it had been six months to a year?
A. Yes.
Q. Okay.
A. Yes.
Q. Do you remember an incident that occurred on September 27, 2015?
A. Yes.
Q. Okay. What were you doing the night of September 26th into the early morning hours of September 27th?
A. Well, me and my girlfriend, Whitney Chance at the time, was hanging out with Mark Connor and -- at Rick Curtis's residence. We had been there for a few minutes.

He'd dropped me off saying that he had to go get some sleep, get some rest, and me and Whitney didn't have anywhere to go for that night. So Rick said we could come by there and hang out there, but then his mom towards the late night hour, about 9 or 10:00, I would say, said we had to leave.

Everybody had to leave off the porch and go elsewhere, but in that time Mark had showed back up. I don't know why, he just showed back up, and we all got in his truck and went to Miss Rose's house.

Q. How was Mark behaving?

A. To me, it was like kind of tired. We had been up for a couple of days. He was just -- days before that he had told me that he was nervous about something, that somebody might have been after him, and that he might need me to have his back. But he would never tell me what it was.

Q. He didn't go into details?

A. No.

Q. All right. So let's get back to that morning. He showed back up, and did you say, gave you a ride?

A. Yeah. We all got into his Suburban, or whatever it was, that he had got from his sister's house that afternoon. We had been over there; he was working on it most of the day. And we left from there and, like I said, he dropped us off and then came back.

And then once Rick's momma told us that we had to leave, he came back up. It was just like

a few minutes afterwards, and we got into the truck and then we went to Miss Rose's house.

Q. Where is that?

A. Right -- I mean, like 100, 200 yards from Rick's, if that. Maybe a little more.

Q. Do you have an address?

A. It's on McCrystal is all I know. I can't remember the exact address.

Q. Okay. When you showed up at Miss Roses's, did anyone else show up?

A. No. It was just the people that was there which was me; Whitney; Markey or Mark; Brandon Varner, my cousin; Tom Kennedy; and Nicky Murray. That's all the people that was there when I was there.

Q. You said, Nicky Murray. Did you know who that was?

A. I only know her by Nicky. I didn't know her. I just found out that her name was Alexis.

Q. You were familiar with her?

A. Oh, yeah.

Q. What did you do once you -- let me back up. What time was this when you were at Rose's?

A. I would say like 10:30, 11:00 to

midnight, somewhere in that general area.

Q. Okay. What did you do once you got there?

A. Once we got in there, we all got out of the truck. We sat in the truck for a few minutes and then we all got out of the truck. I had been up four or five days and was just exhausted.

And once I got on the couch, I was awake maybe, I would say, 15 minutes, and then I passed out. I was -- I was out.

Q. Was anyone else on the couch with you?

A. Whitney was, but not the entire time. She was going back and forth. You know, going back and checking on me while I was sleeping, and going back and hanging out with the rest of them in the back bedroom.

Q. Okay. I'm going to show you what's been entered State's Exhibit 3. And I have a smaller copy too.

MR. STEGALL: May I approach, Your Honor?

THE COURT: Yes, sir.

BY MR. STEGALL:

Q. And it's on also the screen behind you. I want to see if you can tell the jury what that

is.

A. That's the couch in Rose's living room where I was asleep.

Q. Are there any windows?

A. Yeah. In the front of that coffee table, there is like three, I think, maybe four windows, and then the front door is on this side here. (Indicating)

Q. So you have door, window, window?

A. No. You have three windows and then a door is like right here in front of this other chair. So this is where you would walk in and come in that way.

Q. Okay. About how far are those windows from that couch?

A. I would say six to seven feet, approximately.

Q. Okay. I want you to tell the jury what you remember next after falling asleep.

A. After that, you know, I was out, and then I woke up to -- I thought -- I'm pretty sure it was glass, somebody was breaking glass. I thought at first somebody shot through the windows. That's how loud the glass breaking was I heard in front of me.

It kind of startled me, but, you know, I don't know, being on drugs, you know, and being up on meth and all that like I used to be, you could sleep through a tornado. I mean, I wasn't too alarmed, but I kind of passed back out during that time.

But it did startle me. And then I woke up to Whitney beating me on the side and on my legs, like, get up, something's going on. Somebody's in the house. Somebody's back there, I guess, with Mark or wherever they was behind us.

And I could hear them and -- but then there was so much bear mace or mace, whatever it was that was in that room, it just knocked me back out like.

And then once I kind of caught my breath again and I kind of lifted my head up off the couch, you know, I was kind of frightened. I didn't know what was going on at the time, you know.

And then I woke up to seeing Gabby standing in front of us, because I think in that time I had took a blanket and put it over Whitney because I couldn't breathe at all. And I know she has asthma, so I was trying to protect her in a

way; but then I heard her say, there's Markey right there.

And I was looking up at her on the couch and she said, shoot that N-I-G-G-A, shoot that N-I-G-G-A.

And then it was seconds and then I heard the gunshot. And she turned around and left the room. And then it was a matter of, I would say, seconds, maybe 30 seconds, and here comes three other guys just running out of the house, around the back side of the couch, out the front door.

Q. Okay. You said you saw Gabby?

A. Yes.

Q. How -- describe what that person who you believe was Gabby was wearing.

A. She was wearing a hat. At the time she had blond hair, kind of curly, short, with a -- I think a bandana across the bottom of her face.

Q. How do you know it was her? Why not some other blond-headed --

A. Because I know who she was. I mean, I've been around her long enough.

Q. Okay. Were you able to identify her through her voice as well?

A. Yes.

Q. Did you know -- when she was saying, there he is, shoot that person, do you know who she was talking about?

A. Yeah. She said, I see Mark. She didn't say Mark. She said, I see Markey, I see Markey. And then she said, shoot that blank.

Q. What race is Mark?

A. White.

Q. Okay. I want to put that picture back up that's entered as State's Exhibit 3, to give the jury a reference as to where she was in relation to you. And I have a pointer here.

A. Okay.

Q. It's a little red button -- little red button, a laser pointer.

A. I was right here (indicating) and then she was standing right in here, looking through that doorway right there. (Indicating)

Q. And what is that doorway?

A. That's where the bedroom was at. There used to be a door right here, but that was the door I kicked off the hinges to get to Mark. They were using it kind of like a little master bedroom kind of like.

There was another opening right here. That door was wide open and they was looking through there.

Q. Okay. Okay. After the gunshot, what did you do? Were you fully alert at that time?

A. Oh, yeah. Oh, yeah. At first, I didn't know whether to move. I didn't know who had a gun. I didn't know what was going on. You know, like you heard a gunshot, you don't know whether to get up, somebody would just shoot you or blow your brains out or what.

After I seen the guys, I give Whitney my phone and I said, call 911 right now, something's happening. And I had heard Nicky say, they shot Markey. And I could hear them in the room back there. So I gave Whitney my phone.

I said run across the street to Trey's house, which is a neighbor straight across. I said, call 911.

And she said, what's the address? I said, just tell them Rose's house. They'll know. Trust me, they know the address.

After that, I leaped across the house and kicked the door open. And that's when I saw Mark and he was just -- I mean, he was just almost

gone right there.

Q. Did you try to help him?

A. Yeah. Well, he said a couple of words. He said, they shot me. And I was freaking out. So I scooped him up underneath his arms and Nicky grabbed his legs and we took him out to the front porch because -- I just felt it was bad, you know.

He was just -- he wasn't there no more. Life was going out of him by the second. By the time I got him to the front porch and laid him down, his hands and his neck, everything just went limp on me.

And I poked him in the face and was shaking him, screaming his name, and he just -- he was gone. And then the ambulance came up and called the emergency vehicles. And they took over from there.

Q. Do you remember anyone else showing up that -- that wasn't there that night?

A. Only one that was there was my cousin, Bird, but he wasn't there when I woke up. I don't know where he was at. Him or Tommy Kennedy, neither one of them was there when I woke up. I never seen them after I fell asleep.

Q. You said Bird --

A. Brandon Varner, my cousin. He come up on a bicycle with my stepbrother, William Haynes, and his son William Haynes, Junior. I don't know, they just showed up and --

Q. But you didn't see them at Rose's?

A. No, not during that time. I don't know where he was at.

Q. When was the last time that you saw Bird?

A. When we was getting out of the truck, when we was first -- originally, got there that night to Rose's house and me and him was talking, I remember, and then I fell asleep. And I don't remember seeing him or Tommy Kennedy.

Tommy Kennedy, I seen him after it was over and the cops had come and everything. And he come hopping up from somewhere with his foot cut up. We was sitting on Trey's front porch, me and Whitney, waiting to get interviewed by Detective Wilson.

And I said, where did you come from? And I think he said he jumped out of the window, but I don't know where he jumped out of the window. I don't recollect seeing him or Brandon.

Q. I want to ask you one more time about

when you were on the couch. Do you remember Gabby holding anything? Did she have anything in her hands?

A. No.

Q. You don't remember?

A. I don't. I remember her just pointing like that (indicating) and that's --

Q. Was the room covered?

A. It was pretty thick. It took my breath with the mace. I just -- couldn't hardly breathe too much.

Q. Okay. Did you --

A. And Mark was covered in it when -- whenever I picked him up, because it was all over me, like, until the next day it was still burning my skin.

Q. Where was it on Mark?

A. All over him. His face and mouth especially. It was just yellow-looking and it was coming out of his nose. It was from the mace. It was like somebody drowned him with it, but he was covered.

Q. Did he have -- could you tell if he had a higher concentration of mace on him than everybody else?

A. Oh, yeah. Like, he was maced. That's -- I mean, like I said, his normal skin color, it was like a yellow. Like yellow, yellow. You could see it. The fluid was coming out of his nose and all. It was like somebody just put it to his face and drowned him basically.

Q. And did law enforcement eventually show up that night?

A. That morning.

Q. That morning, I apologize.

A. Yes. As soon as -- because of Whitney calling, and when I give her my phone, and by the time -- by the time I got him to the front porch, me and Nicky -- and she was trying to find where he was shot at.

And I looked up and here comes all of the emergency vehicles pulling in, and the EMS.

Q. How soon did you give her your phone from the time you all got him to the porch?

A. Like a couple of seconds after I heard the shot. After they ran out, the guys did, and I gave her my phone. And then I heard Nicky say -- because I heard the gunshot so I knew something was -- you know, call the police when you hear a gunshot.

And that's when Nicky said, they shot Mark. And I said, go across the street now and call right now.

Q. How long after you got Mark to the porch did they arrive?

A. Man, it was less than a minute they was there I would say.

Q. From the time you pulled Mark to the porch until the time they showed up --

A. They were pulling into the yard.

Q. So not 30 minutes?

A. No. No.

Q. Okay. Did you provide a statement that morning?

A. Yes.

Q. Okay. Is that statement that you gave almost four years ago what you just testified to today?

A. Yes, sir.

Q. Okay. Are you still using meth?

A. No, sir. I've been clean for a year.

MR. SMALDONE: Okay. Beg the Court's indulgence?

May I approach?

THE COURT: You may.

BY MR. STEGALL:

Q. I will hand you your statement that you provided to law enforcement. Just read it to yourself real quick.

When you said you heard what Gabby said when she was standing right over you, was that in your statement?

A. No, sir.

Q. Okay. Why not?

A. I don't know. It was just -- I think maybe because I was just so overwhelmed and just by, you know, the police and stuff being there, you know.

And when you're on drugs and stuff like that, and warrants, police make you -- you don't want to be around cops to begin with, and then -- I don't know. I was just writing as fast as I could just to get out of the cop car really, and saying the best I could remember.

But I will never forget what she said. I saw -- that's what I saw too.

Q. Are you certain that's what she said?

A. Yes.

Q. Okay. How long have you been off drugs?

A. March 26th was a year.

MR. STEGALL: Okay. Nothing further, Your Honor.

Please answer anything that Mr. Smaldone has for you.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. Mr. Varner, afternoon?

A. How are you doing?

Q. Are you having a good afternoon?

A. So far.

Q. It's my understanding you weren't expected to testify today?

A. No.

Q. All right. So I have a few questions for you. All I ask is that we don't talk over each other. Okay?

A. Yes.

Q. Just make sure to answer the question because this young lady is a court reporter. She has to write down everything that we saw. All right?

A. All right.

Q. And I'm going to do the same thing if I

can.

A. Okay.

Q. So you said you've been off drugs about a year?

A. Yes, sir.

Q. You have a pending charge, though, correct?

A. Yes, sir.

Q. And that's a pending meth charge, right?

A. Yes, sir.

Q. And you are currently on bond for that charge, right?

A. Yes, sir.

Q. Is that manufacturing meth?

A. No.

Q. Okay. Distribution, or what is it?

A. Possession with intent to distribute.

Q. Okay. So possession with intent to distribute meth?

A. Yes, sir.

Q. And that charge is still pending, right?

A. Yes.

Q. And it's being prosecuted by the

Solicitor's office, correct?

A. Yes, sir.

Q. Okay. I just want to clear that up. You've been in trouble with the law before that, right?

A. Yes.

Q. Okay. And I want to talk a little bit about the night that we're all here.

A. Uh-huh.

Q. You said you got there about 10:30 that night?

A. Yeah.

Q. And there were -- I keep losing track of how many people were there. How many people were there? How many slept there that night?

A. Me, Whitney, Mark, Brandon, Tommy, Rick, and Nicky. And, of course, Miss Rose, but she kind of -- she always stays in her bedroom.

Q. Eight people in the house?

A. Yes.

Q. And you knew Mark for how long?

A. For years.

Q. Years before this?

A. Yes.

Q. And you knew Gabby before this?

A. Yeah.
Q. Okay. And you knew -- did you know everyone in the house?
A. Yes.
Q. And how -- did you stay at Miss Rose's house a lot or a little?
A. Just from time to time.
Q. Just from time to time --
A. Yeah, everybody in the neighborhood does.
Q. And it's fair to say it's kind of a drug house?
A. Yeah. Trap house is what you call it.
Q. Right, trap house. Other people call it that?
A. Yes, sir.
Q. And you had gotten high at the house?
A. Yes.
Q. Everybody else had gotten high at the house?
A. Yes.
Q. You had gotten high that night?
A. No.
Q. When you say -- had you been there when the cops had been called to that house?

A. No, not -- actually, during Mark's case, that was the only time I had been there when the cops were called.

Q. But you heard about cops getting called to that house before?

A. Oh, yes. Oh, yes.

Q. You said, tell them it's Miss Rose's house, they'll know how to get here?

A. Oh, yeah. They know Rose's.

Q. You were never there for that?

A. No, sir.

Q. Okay. So it's your testimony that you were asleep until you heard the door get busted. Was it a door or a window?

A. It was glass breaking. I heard glass breaking right in front of me.

Q. So you were asleep before that and that woke you up?

A. That and my ex-girlfriend shaking me saying somebody is trying to get in, or somebody's trying to do something. She was alarmed and trying to shake me.

Q. Okay.

A. But it's hard to wake somebody up that's been up for three or four days. You try it.

Good luck.

Q. I can only imagine. So you eventually got up after all that, but you didn't witness who was in that room with Mark, right?

A. No. I only saw them when they were exiting.

Q. Okay.

A. To the best of my memory.

Q. And you saw -- you said there were four or five people that came in the door?

A. What I counted was three guys and Gabby is the ones that I seen.

Q. All right. And, initially, you thought that one of the guys was someone named Toby; isn't that right?

A. Yeah; that's what people were saying. So, I mean, at that moment right there, you know, people were saying Toby this, Toby that, but nobody -- I guess nobody knew exactly who he was because a bunch of -- you know, they had bandanas over their faces as they were exiting.

So I don't -- I couldn't tell you exact names.

Q. All right. You described Toby wearing -- whoever Toby was, you now know that is Matt

Grainger, right?

A. Yeah. Yeah. That's who it come to be.

Q. And you know that through talking to law enforcement or --

A. Just through -- you know, through the grapevine. Everybody talking, finally, the names came out.

Q. And you described Matt Grainger as wearing a white bandana?

A. Yeah.

Q. Okay.

A. And there was actually one had kind of a muscular build to him.

Q. You're still talking about Toby slash Matt Grainger, right?

A. I'm not sure that was Matt Grainger, or what. I only seen one guy from this side running. If I was on the couch right here, they were coming from behind me running this way. (Indicating) There was a tall one, kind of medium, and then a real short one.

Q. Those were the three guys, right?

A. Yes. Gabby had done left the front door by the time they come back out.

Q. Okay. You've already talked a little

bit about the statement you gave. You've seen your statement, right?

A. Yes.

Q. Fair to say that you didn't say anything about Gabby wearing a handkerchief or a bandana, right?

A. Yes.

Q. You didn't describe it in your statement, right?

A. No, I did not.

Q. Okay. And, again, you've already mentioned this; you didn't say anything in your statement minutes or hours after it happened about Gabby saying what you said she said, right?

A. Yes.

Q. You never said anything about her saying, shoot him, right?

A. Not in my statement, no.

Q. Not -- and, of course, certainly not the more specific version we talked about?

A. Right. But at that time, I was trying to, you know, remember as quick as you can, yet you still have on your mind that one of your friends just got shot and killed.

And so you're just overwhelmed and

trying to write down a bunch of information and you're still just -- you know, your adrenalin is pumping and you don't know what's going on. You just basically witnessed somebody getting killed.

Q. But you described outfits, right?

A. Yes.

Q. And you described pepper spray, right?

A. Yes.

Q. And you described where the house was, right?

A. Yes.

Q. I mean, it's about a page and a half; is that right?

A. Yes.

Q. All handwritten?

A. Right.

Q. But nothing about the other stuff, right?

A. No.

MR. SMALDONE: Beg the Court's indulgence.

Nothing more from this witness.

THE COURT: Any redirect?

MR. STEGALL: Two questions, Your Honor. Very briefly.

REDIRECT EXAMINATION

BY MR. STEGALL:

Q. How long had you been up that night? How many days prior?

A. Four or five.

Q. Without any sleep?

A. Without any sleep.

Q. And how long did this incident happen -- take place in your mind?

A. You talking about the actual from when they came in or from when we got there?

Q. From the time you were alert, as you said, until the time that law enforcement showed up.

A. I would say 10, 15, no more than 20 minutes.

MR. STEGALL: Okay. Thank you.

THE COURT: You may step down, sir.

You may call your next witness.

MS. SMITH: The State calls Kimberly Farst.

KIMBERLY VANDIVER,

being first duly sworn, testified as follows:

THE CLERK: Please have a seat. State your full name for the record, and spell your last

name.

THE WITNESS: Kimberly Vandiver, V-A-N-D-I-V-E-R.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Good afternoon, deputy. Where are you currently employed?

A. Dorchester County.

Q. And what is your position at Dorchester County?

A. I'm a school resource officer.

Q. And is this the same position that you held in September of 2015?

A. No.

Q. What was your position then?

A. I was a deputy on the road at Berkeley County.

Q. And as a deputy on the road, what were your roles and responsibilities?

A. We answer calls for service, ran radar, wrote tickets, testified in court. Whatever was needed to keep the community safe.

Q. And did you have occasion while you were working as a road deputy for Berkeley County to respond to 512 McCrystal Circle September 27th,

2015?

A. Yes.

Q. Is that address located in Berkeley County?

A. Yes.

Q. How were you dispatched to the residence?

A. We were dispatched around 7:25 a.m. for a shooting that had occurred at the address.

Q. And what did you observe when you arrived?

A. A male subject laying on the front porch, he was pale and unconscious; and there was a female bent over holding a towel on his left hip and quite a bit of blood on the porch.

Q. And were you able to identify the female that was leaning over him?

A. I think her name was Alexa (sic) Murray.

Q. And after you made contact, what did you do on-scene?

A. I checked quickly for security to make sure that, you know, there wasn't anybody inside the residence that shouldn't be there. The owner of the residence advised me that no one was inside

the residence; but I did a quick sweep, called dispatch for an ambulance and separated the witnesses and waited on other officers to arrive to secure the crime scene.

Once they arrived, I took charge of the crime scene log.

Q. How many total witnesses were on-scene when you initially arrived?

A. There were three people on the front porch and two people standing off the porch to the right-hand side by a SUV, a black SUV.

Q. Okay. Had EMS already been dispatched or were you the initial officer?

A. I'm not really sure. They probably had been dispatched, since it was called out as a shooting, but I'm not really sure. I advised, you know, our dispatch that we had -- we needed an ambulance.

Q. Do you recall how long it took for EMS to arrive after your response?

A. No.

Q. Okay. After other officers arrived on-scene, you said that you maintained a crime scene log. What is that?

A. Once we secure a crime scene, anyone

who actually goes into the crime scene has to have a purpose. We just don't let people traipse through. We have them sign what time they went in, what time they came out and the reason for being there so we could actually keep track of who came into our crime scene.

Q. Did you have any other responsibilities other than maintaining the crime scene log?

A. When we initially separated the witnesses, they were myself and two other officers. We kind of took verbal statements and gave them paperwork to write out a written statement, and all of that was turned over to investigators.

Q. After you completed your duties of the crime scene log and taking statements, did you have any other involvement in this case?

A. Pretty much, no. I stayed most of the day because we stay until -- somebody stays until the investigation is over. And since I was the one who did the original report, I stayed while they did the investigation as far as crime scene.

Q. Did any other witnesses come to the scene that had left or anything to your knowledge, or was it just those five main witnesses?

A. Not that I'm aware of, but it doesn't

mean it didn't happen.

MS. SMITH: I don't have any further questions for you. Thank you.

THE COURT: Cross-examination.

MR. STEGALL: Nothing for this witness, Your Honor.

THE COURT: Thank you, ma'am. You may step down.

THE WITNESS: May I go?

THE COURT: Any objection to her being released?

MS. SMITH: No objection.

MR. SMALDONE: None.

THE COURT: You may call your next witness.

MS. SMITH: Judge, I have a matter of law. May we approach?

THE COURT: Certainly.

(Bench conference)

THE COURT: Ladies and gentlemen, we need to take a brief recess. We're trying to get our witnesses coordinated through nobody's fault, so we will take a very brief recess.

Do not discuss the case. We will be right back with you. You may go to your jury room.

(Jury out, 4:28 p.m.)
THE COURT: Let me know when you're ready to proceed.
MR. STEGALL: Thank you, Your Honor.
(A recess transpired)
THE COURT: Ready for the jury?
MR. STEGALL: Yes, Your Honor.
Your Honor.
THE COURT: Hold on.
MR. STEGALL: For scheduling purposes, we have two more witnesses. We have a lay witness about to testify and then a forensics witness who is on the way now and she won't be very long.
THE COURT: All right. So I told the jurors that we stop testimony around 5:00, so as long as it's not too much later after that.
(Jury in, 4:36 p.m.)
THE COURT: Welcome back. We're ready to proceed. You may call your next witness.
MR. STEGALL: Thank you. State calls Tommy Kennedy.

TOMMY KENNEDY,

being first duly sworn, testified as follows:
THE CLERK: Please have a seat. State your full name for the record, and spell your last

name.

THE WITNESS: Tommy Allen Kennedy, Junior, K-E-N-N-E-D-Y.

THE COURT: Your witness.

MR. STEGALL: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. STEGALL:

Q. Tommy, where are you currently employed?

A. I just -- I'm not employed. I just got out of Berkeley County this morning at 12:00.

Q. What did you do before you got out of Berkeley County?

A. Roofing.

Q. Roofing. All right. Where are you from?

A. Moncks Corner.

Q. Do you know this defendant sitting here at the table?

A. (Nodding head)

Q. Is that a yes?

A. Yes.

THE COURT: You need to answer. My court reporter has to take down what you're saying.

THE WITNESS: Yes.

BY MR. STEGALL:

Q. What's your relationship to the defendant?

A. I just knew her.

Q. Back in 2015, how long had you known her prior to September 20, 2015?

A. A couple of months.

Q. Did you know Mark Connor?

A. Yes.

Q. About how long did you know Mark Connor prior to September 27th, 2015?

A. Off and on since I was like 16.

Q. Were you close to Mark?

A. Off and on. I got -- the last three months of his life I lived with him.

Q. Okay. Where was that?

A. Right there beside the Citgo on 17.

Q. Okay. Did you ever live with the defendant?

A. Yeah, for about a week.

Q. Where was her house located?

A. I think Pleasant Oaks.

Q. Okay. Did she ever tell you about a problem that she had with Mark Connor?

A. I would rather not answer.

THE COURT: Sir, you must answer the question.

THE WITNESS: Yes.

BY MR. STEGALL:

Q. What kind of problem did she have with Mark Connor?

A. He took $1200 and a motorcycle.

Q. Did she offer some sort of reward or incentive to help locate him?

A. Yes.

Q. What was that incentive?

A. Seven grams of ice.

Q. Did she offer it to you?

A. She offered it to anybody that could find him.

Q. Did you volunteer to help her?

A. No.

Q. All right. Do you remember an incident that occurred on September 27, 2019?

A. Yeah.

Q. 2015, I'm sorry.

A. That was the morning that Mark Connor was shot and killed.

Q. Where were you this morning?

A. At -- I don't know the exact address,

but it's McCrystal. It's Miss Rose's house.

Q. What were you doing over there?

A. I was asleep. We were all asleep.

Q. Okay. Where were you sleeping?

A. On the couch when you first come in on the left.

Q. Do you remember who was in that room with you?

A. Whitney Chance and Nicholas Varner, Rose was sleeping in her room, Mark, Nicky, and Richard Curtis were asleep in the back bedroom on the right.

Q. Was anyone else there --

A. No.

Q. -- at that point?

A. At that point, no.

Q. Did you do anything prior to falling asleep at Miss Rose's house?

A. I put the door stopper on the door.

Q. What's the door stopper?

A. It prevented somebody from getting inside the house easy.

Q. Why would you do that?

A. I don't know. Something told me -- it was already there and something just told me to put

it there. Brandon Varner kept leaving and coming back, so I put it there so -- he'd left and I didn't want him coming back in. So I put it there.

Q. Was it normal for him to come, leave and come back, leave and come back?

A. No.

Q. Did you think it was strange?

A. Yeah, something was weird.

Q. So when you put that door stopper in, was Brandon Varner in the house?

A. No.

Q. Eventually you fell asleep?

A. Uh-huh.

Q. Did something wake you up?

A. Yeah. Somebody trying to kick the door in.

Q. What did you do?

A. I had got up and didn't even have time to put my shoes on and to go out the back door, and when I'm going to the back door Brandon Varner is sitting on top of the washing machine.

Why would you just be sitting there and the door is trying to get kicked in?

Q. I'm going to show you what's been premarked as State's Exhibit 10. I want to see if

you recognize this photo.

A. That's the door I went out of.

Q. Just yes or no.

A. Yes.

Q. Is that a fair and accurate representation of the room that you're talking about today?

A. Yes.

MR. STEGALL: At this time, the State moves to enter State's Exhibit 10 into evidence and publish to the jury.

THE COURT: Any objection?

MR. SMALDONE: No objection.

THE COURT: All right. It's in.

(PLF. EXH. 10, Photograph, in evidence.)

MR. STEGALL: May I approach?

THE COURT: Yes, sir.

BY MR. STEGALL:

Q. All right. What is that a picture of?

A. The laundry room.

Q. Where is that in relation to, say, the porch?

A. The front porch? It's in the very back

of the house.

Q. So that's the back of the house?

A. Yeah, that's the back of the house.

Q. Okay. And where is the bedroom that Markey was in in relation to that picture?

A. When you come into the -- you come into the house, come in, take a right, and there's a bedroom to the far right and then there's another one off to the other side, right there by the bathroom. He was in the one by the bathroom.

Q. So is that opposite of where he was?

A. Yeah. That's connected to the kitchen.

Q. Okay. Now, you said you ran out that door when you heard glass breaking?

A. Uh-huh.

Q. And who did you see sitting on the washing machine?

A. Brandon Varner.

Q. What did you think about that when you saw? Well, first, let's describe Brandon's demeanor.

A. He was just sitting there like everything was nonchalant. Like it was cool. Like, how can you be sitting there when someone is trying to kick the door in?

I'm running with no shoes on. I cut my foot to the bone trying to go get help.

Q. Was it loud in the house?

A. Yeah. From trying to kick in the door and busting the glass, yeah.

Q. Was there a lot of commotion going on?

A. Yeah.

Q. Was everybody panicking?

A. I don't really remember. I just remember getting up and running out the back door and seeing Brandon Varner there.

Q. How was he acting?

A. Like everything was cool. There was nothing happening.

Q. Do you know how he got back in the house?

A. No. And he has a messed up leg. He'd just got run over. There was no way that he climbed that fence.

Q. Okay. Did he say anything or did you say anything to him?

A. No. I just looked at him and got out.

Q. You said you cut your foot. Tell us about that.

A. I cut my right toe all the way to the

bone running through the woods. I don't know what I cut it on. As soon as I stopped, I looked down and there was blood on my sock.

Q. Did you receive medical care for that?

A. Yeah, but I wouldn't let them touch it.

Q. Who is that?

A. The doctor.

Q. Okay. EMS?

A. Yeah, the EMS. And they took me to the hospital, but I wouldn't let them touch me.

Q. Did you receive any care for it?

A. Yeah. They give me pain medicine.

Q. Okay. Did you come in contact with law enforcement at the hospital?

A. Yeah. They come and did a gun swab.

Q. Okay. Did you speak to them at that time?

A. No. I didn't speak to them until after I got back to my house.

Q. How did you get back to your house?

A. I think the detective gave me a ride back.

Q. Okay.

A. It was a lady.

Q. Did you provide a statement to law

enforcement?

A. Yes.

MR. STEGALL: Okay. May I approach the witness, Your Honor?

THE COURT: You may.

BY MR. STEGALL:

Q. That's your statement. Read over it yourself.

A. I know what I said.

Q. Where is the part about Brandon Varner being on the washing machine?

A. It's not.

Q. Why not?

A. It was all a daze, man. Like, I don't know.

Q. Are you -- I'm looking at you. Are you uncomfortable right now?

A. Yeah, dude. Yeah.

Q. Why?

A. I'm testifying in a murder trial. Who wouldn't be?

Q. Are you sure that you saw Brandon Varner?

A. I'm positive.

Q. When you said they were kicking the

door -- going back to the incident. Could you hear a female voice?

A. Yeah.

Q. Could you hear what she was saying?

A. No. I just heard her voice. I didn't hear what they were saying.

Q. Did you recognize that voice?

A. Yeah.

Q. Can you tell the jury who you believe that voice to be?

A. Gabby's.

MR. STEGALL: No further questions, Your Honor.

THE COURT: Cross-examination.

THE WITNESS: Can I have some water?

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. All right. Mr. Kennedy, good afternoon.

A. How are you doing?

Q. I'm all right. I know you're a little bit nervous. I want to make sure that we're on the same page. I'm just going to ask you a few questions. All right? Is that okay?

A. Okay.
Q. The court reporter needs to hear an answer from you. Not me. Personally, I don't care, but she needs to hear yes or no so she can write it down. Okay?
THE COURT: Is that a yes?
THE WITNESS: Yes.
BY MR. SMALDONE:
Q. I'm sure you've seen TV shows. I'm not going to yell at you. This isn't Law and Order. I just want a few things. Okay? So you were released from jail earlier today?
A. Yes, sir.
Q. And what were you in jail for?
A. Assault second.
Q. And that charge was prosecuted by the Solicitor's office?
A. Yes, sir.
Q. And that charge was dismissed today?
A. Yes, sir.
Q. And going back a few years to the night of that incident, you do remember that?
A. Yes, sir.
Q. You had stayed at that house before?
A. Where?

Q. Miss Rose's house.

A. A couple of times.

Q. Fair to say a lot of people stay at that house?

A. Yes.

Q. Fair to say a lot of people do drugs at that house, right?

A. (No response)

Q. That's all right. Your testimony is, shortly after you heard people come in you took off and ran?

A. Yes.

Q. You didn't see anything else happen then, right?

A. No. I just didn't see anything.

Q. You just ran in the woods?

A. Yes.

MR. SMALDONE: All right. And beg the Court's indulgence.

That's all I got for you.

THE COURT: Thank you. Any redirect?

MR. STEGALL: Briefly.

REDIRECT EXAMINATION

BY MR. STEGALL:

Q. Who was the victim in that A and B

second?

A. Huh?

Q. That A and B second you were charged with, who was the victim?

A. My father.

Q. What did he do today?

A. He went down there last week and dropped the charge.

Q. Do you know who was prosecuting that case? Was it me?

A. No.

Q. Do you remember when we met at the end of March?

A. Yes.

Q. A few weeks ago? Do you remember we talked about that case, I said I don't know a thing about that case?

A. Yes.

Q. Were you promised anything for your testimony today?

A. No.

Q. Is the only reason that you're here today is because I told you you were under subpoena?

A. Yes.

Q. Did you want to be here today?

A. No.

Q. So why are you testifying here today? Is it because I promised you something?

A. No.

Q. Okay. Why is it?

A. It's time to do something different.

MR. STEGALL: Okay. Thank you, Your Honor.

THE COURT: You may step down, sir. Thank you.

You may call your next witness.

MR. STEGALL: The State calls Chrystal Pence.

CHRYSTAL PENCE

being first duly sworn, testified as follows:

THE CLERK: Please have a seat. State your full name for the record, and spell your last name.

THE WITNESS: Chrystal Spence, S-P-E-N-C-E.

THE COURT: Your witness.

MR. STEGALL: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. STEGALL:

Q. Deputy Spence, where are you currently employed?

A. Berkeley County Sheriff's Office in the forensic service unit.

Q. Okay. What is your rank?

A. Sergeant.

Q. Sergeant, I apologize. I called you deputy; I should have called you Sergeant Spence. That's my fault.

What are your duties and responsibilities with the forensic unit?

A. Processing crime scenes, processing evidence that is turned in by deputies or detectives transporting evidence to other agencies to be processed and help maintain the working environment over at the forensics building.

Q. Do you investigate cases?

A. Yes.

Q. Okay. What are some ways that you -- that you process a scene as far as evidence collection and things like that?

A. We use photography to photograph before we move anything, and then after we marker pieces of evidence, we process using fingerprints, dust to process latent prints, use swabs to collect blood

or any other bodily fluids.

Q. Were you on duty the morning of September 27, 2015?

A. Yes, I was.

Q. Do you remember being called to an incident that we're here for today that morning?

A. Yes.

Q. Okay.

A. By dispatch.

Q. What was the location of that incident?

A. 512 McCrystal Circle in Moncks Corner.

Q. What county is that in?

A. Berkeley County.

Q. Okay. What was the call in reference to?

A. A shooting.

Q. Okay. Do you know about when you arrived at the incident?

A. Roughly, 8:20 a.m.

Q. Did you make contact with anyone?

A. Sergeant Cook.

Q. Okay. What did you do once you made contact with Sergeant Cook?

A. He let me know what we have -- basically, what kind of scene we had. He told me

that a victim was transported to the hospital. He showed me the people that were still on scene that were inside the residence and told me that we were waiting for a search warrant.

Q. Okay. Did you perform any duties while waiting on that search warrant?

A. Yes, I did. I performed GSR kits on several people that were inside the residence.

Q. Okay. Why -- well, let's back up. What is a GSR kit?

A. It's a gunshot residue kit. It has a questionnaire, a set of gloves, and dabbers where you dab with a sticky piece of paper on the dabber on the palms of the hand and back of the hand.

Q. What is the purpose of that?

A. To see if that person may have shot a weapon.

Q. So you said you performed that on everyone there. Why did you perform it on everyone at the house?

A. Because at the time, I did not know who the suspect was. And anybody that's at a residence has a gunshot residue kit done.

Q. Were you personally charged with trying to determine who the suspects were or was it your

job to --

A. My job is to collect the evidence to be processed, to eliminate or state that that person has shot the gun.

Q. Okay. Did the search warrant ever come back signed?

A. Yes, it did.

Q. What do you do once you received the signed search warrant?

A. Photographed the inside and outside of the residence. Once Ann Flood got on the scene, he helped me do -- he's a crime scene investigator. He helped me go inside and see if we could locate any evidence of a shooting.

Q. Okay. Did you locate any physical evidence inside the house?

A. Yes, I did.

Q. Okay. I'm going to show you what was premarked as State's Exhibit 12. See if you recognize that.

A. Yes, I do.

Q. Is that a fair and accurate representation of physical evidence that you found on scene that day?

A. Yes.

MR. STEGALL: Okay. Your Honor, at this time, the State moves to enter into evidence State's Exhibit 12 and publish for the jury.

THE COURT: Any objection?

MR. SMALDONE: No objection.

THE COURT: All right. It's in.

(PLF. EXH. 12 in evidence.)

BY MR. STEGALL:

Q. Can you tell the jury what that is?

A. It is a picture from the back bedroom, the headboard, looks like a shelf headboard in between the headboard and the wall.

Q. And what is that resting on, the --

A. It's a shell casing.

Q. Okay. I hand you what's been premarked as State's Exhibit 20. Do you recognize that?

A. This is the shell casing that we collected.

MR. STEGALL: Your Honor, at this time the State moves to enter State's Exhibit 20 into evidence.

THE COURT: Any objection?

MR. SMALDONE: No objection.

THE COURT: All right. It's in.

(PLF. EXH. 20 in evidence.)

BY MR. STEGALL:

Q. Did forensics perform a graphic layout of the residence?

A. Ann Flood drew that picture, not to scale, but of the residence.

Q. Okay. I hand you what was premarked as State's Exhibit 11. Do you recognize that?

A. Yes, I do.

Q. Is that a fair and accurate representation of what forensic drew up that morning?

A. Yes, it is.

MR. STEGALL: Your Honor, at this time the State moves into evidence State's Exhibit 11 and publish to the jury.

THE COURT: Any objection?

MR. SMALDONE: Without objection.

THE COURT: All right. It's in.

(PLF. EXH. 11 in evidence.)

BY MR. STEGALL:

Q. I will give you this clicker if you want to use that. Where was the casing located?

A. This bedroom. This is the headboard, and it was about in the middle of the headboard.

Q. Where did the shooting take place?

A. I'm going to say in this bedroom. There is a doorway here with no door, and I can only assume in this general area. (Indicating)

Q. Okay. All right. Did you process anything outside of the residence?

A. Yes, a black Yukon that was in the driveway.

Q. Did you collect any evidence from the Yukon?

A. No, I did not. Just photographs.

Q. Okay. Did you perform any other duties while you were at the house?

A. Yes, sir. I processed the front door and the front door outside knob for fingerprints. And one latent fingerprint was obtained from the doorknob, and I collected a swab from the bathtub of blood.

Q. Okay. And was that the extent of your involvement in this case?

A. I did some overall photographs of the front yard where tire impressions were and then some up closer of the tire impressions with scales and without scales.

MR. STEGALL: Okay. No further questions. Thank you.

THE COURT: Cross-examination?

MR. SMALDONE: Beg the Court's indulgence.

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. All right. Sergeant, good afternoon.

A. Afternoon.

Q. I just have a couple of questions for you.

A. Yes, sir.

Q. Were you the initial -- you were the initial responding officer or you got there some time afterwards?

A. I was the initial responding officer for crime scene.

Q. For the crime scene, but the road deputies had already gotten there?

A. Correct.

Q. I don't know what they're called, but road deputy-type people.

A. Yes.

Q. So you processed the crime scene, right?

A. Yes.

Q. And you saw -- how many people were in

the house at the time when you got there?

A. When I got there, I had six people that were left in the residence.

Q. Okay.

A. Well, they were not in the residence. Left from the residence.

Q. Okay. And you tested the door handle?

A. Correct.

Q. And you pulled one fingerprint from that, I think?

A. Correct.

Q. And you found a shell casing?

A. Yes.

Q. And you put that in evidence?

A. Yes.

Q. And that's the extent of your involvement with that shell casing? You didn't test it or anything like that?

A. Correct.

Q. And of course you took the pictures, right?

A. Yes.

Q. Had you responded to that house before?

A. I have not, no.

Q. Okay. Fair to say it's a pretty small

house?

A. Yes.

Q. And you testified you never tested the fingerprints, right? You just put it into evidence?

A. Just put it into evidence.

Q. Same as the bullet casing, right?

A. Yes.

Q. You never recovered anything that looked like pepper spray or mace, or tested it, did you?

A. No.

Q. And you didn't collect -- you didn't get any statements from anyone that was there?

A. No.

Q. That's not really your job?

A. Correct.

MR. SMALDONE: Okay. And I think that's all the questions I have for you.

THE COURT: Any redirect?

MR. STEGALL: No redirect, Your Honor.

THE COURT: You may step down, ma'am.

THE WITNESS: Thank you.

THE COURT: Ladies and gentlemen, it's almost 5:00. This is a good breaking point for us

for the afternoon. I'm going to ask that you return to your jury room tomorrow morning at 9:30 in the morning.

Remember my previous instructions not to discuss the case with anyone or allow anyone to discuss the case with you.

Have a nice evening.

(Jury out, 5:03 p.m.)

THE COURT: Counsel, was the defendant out on bond prior to --

MR. STEGALL: She was not.

THE COURT: Anything else before we recess for the evening?

MR. STEGALL: Nothing, Your Honor.

THE COURT: All right. We'll be adjourned until 9:30 in the morning.

MS. SMITH: Thank you, Judge.

(These proceedings were recessed at 5:04 p.m., to be continued 4/9/19 @ 9:30 a.m.)

(The following proceedings were had 4/9/2019, in re State v. Gabrielle Davis-Kocsis, 9:52 a.m.)

THE COURT: Everyone ready to proceed?

MR. STEGALL: The State's ready, Your Honor.

MR. SMALDONE: The defense is ready.

THE COURT: Let's have our jury, please.

(Jury in, 9:40 a.m.)

THE COURT: Welcome back, ladies and gentlemen of the jury. We're now ready to proceed with the trial of this case. You may call your next witness.

MR. STEGALL: Thank you, Your Honor. The State calls Richard Curtis.

RICHARD CURTIS

being first duly sworn, testified as follows:

THE CLERK: Please be seated. State your full name, and spell your last name for the record.

THE WITNESS: Richard Gene Curtis, C-U-R-T-I-S.

THE COURT: Your witness.

MR. STEGALL: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. STEGALL:

Q. Good morning, Mr. Curtis. You go by Richard?

A. Rick.

Q. Rick. Okay. Rick, where were you employed prior to incarceration?

A. What, this time around? Wendy's.

Q. Wendy's. Okay. Where are you from?

A. I was born in Florida, but I've been here since I was 13.

Q. Do you know Mark Connor?

A. Yes, sir.

Q. How do you know him?

A. We grew up in the same neighborhood. I was with -- I hung out with his little brothers.

Q. About how many years have you known him?

A. Since I was about 15.

Q. Do you know Gabby Davis?

A. Sort of, yes, sir. I met her a few times.

Q. How long had you known the defendant from September 2017?

A. Who's that?

Q. Gabby Davis.

A. I had got out of -- I met Gabby a couple of times before I went to jail. And then when I went to jail, I met her a couple more times, and that was it.

Q. When did you get out of jail in 2015?

A. I want to say -- did this happen on the 26th or the 29th? It was ten days prior to this happening.

Q. Unfortunately, you can't ask me questions like that.

A. All right. So it was like September 16th or September 19th.

Q. Okay. Where did you go to stay when you got out of jail?

A. I had a girlfriend I was dating at the time picked me up from right here by the jail and took me to where she was staying which was at Gabby's house.

Q. How long did you stay at Gabby's house?

A. A couple days.

Q. Okay. While you were staying at Gabby's house, did she ever have a phone conversation with anyone?

A. Yes, sir.

Q. Do you know who that conversation was with?
A. He was -- Gray -- Grayson.
Q. Okay. How did you know she was talking to Gray?
A. Because she told me.
Q. Okay. Were you able to hear what -- the contents of that conversation, what she was saying?
A. I mean, just basically that Mark had stole a bunch of stuff and didn't have some money that she was supposed to have for him.
Q. And who is Mark?
A. Mark Connor.
Q. Okay. Did she say anything else to Gray?
A. Just, basically, that she didn't have the money because he stole it, you know.
Q. How did she appear when she was talking to him? Was she happy?
A. Now, I'm going to be honest, we was all high as hell. Pardon my language. We was -- somebody been, like, uh -- I don't know if any of you all have ever seen meth, but meth will make you like really hyper and, you know, kind of out there.

And that's probably how we all was.

Q. Okay. Did you stay at Gabby's, or did you go somewhere else?

A. I stayed there for a couple of days.

Q. Okay. Did you move somewhere else?

A. Yes, sir.

Q. Where did you move?

A. Well, I had another girl I messed around with in Macedonia. And so I went there for a couple of days, and then I went back to my mama's.

Q. Okay. All right. Do you remember an incident that occurred on September 27th of 2015?

A. I don't know if that's the date or not. Is that a Sunday?

Q. Again, unfortunately, you can't ask me questions.

A. I understand.

Q. I have to do the asking. Did you end up at Miss Rose's house at some point?

A. Yes, sir.

Q. Do you remember something happening at Miss Rose's house?

A. Yes, sir.

Q. Do you remember who all was at Miss

Rose's?

A. Yes, sir.

Q. And who was that?

A. Brandon Varner, I want to say Brittany Wright, Nick Varner, Whitney Chance, myself, Alexis Murray, Rose, Tommy Kennedy, and Mark Connor.

Q. Okay. Do you remember what time of day this was?

A. I don't understand that question. No, we got there that night. We got there at night --

Q. Okay.

A. -- and wound up staying the night. And then they -- all hell broke loose the next morning.

Q. Okay. What did you do when you got to Miss Rose's?

A. Put some meth in a bowl and started getting everybody high and give Miss Rose a blunt for some Klonopin.

Q. What was everybody else doing?

A. Getting high.

Q. After you got high, what did you do next?

A. Me, Nicky, and Mark went into the back bedroom. Because there was an incident where somebody sold Nicky's truck to Mark, so me and

Nicky went down there to talk to Mark to try to get the truck back.

And while we was -- I got real high off the Klonopin and wound up passing out in the bed. Well, I guess Nicky did too, and Mark.

So we wound up passing out later that night, and the next morning I awoke when a gun went off and Nicky was pushing me on the floor.

Q. When you say Nicky, who are you referring to?

A. Alexis, I'm sorry.

Q. That's okay.

A. Alexis Murray.

Q. That's okay. All right. So let's talk about that. What do you remember after falling asleep?

A. Waking up on the -- in between the bed and the dresser and not being able to see anything. It was a bunch of mace in the air. And Mark was -- he kept saying, like, I was hit, they got me.

And we got him out on the front porch, and -- he died so fast. We was trying to stop his leg from bleeding.

And the police come and took our statements. I didn't see nothing in the house,

but --

Q. Why couldn't you see anything?

A. Because of the mace.

Q. Was it painful?

A. Yeah. It was -- it was, I want to say like foggy in the air because it was so much.

Q. Were you in pain?

A. As far as sinuses, I couldn't breathe. I don't know if that's really pain.

Q. All right. So you get Markey out on the porch. Did you stay outside of the house?

A. Yes, sir.

Q. Did you ever go back inside the house?

A. Yes, sir.

Q. What was the purpose to go back inside the house?

A. Well, I had -- that meth that I had the night before, when I -- when me and Alexis and Mark went back into the bedroom, I had the meth bowl and the bag of meth on my stomach.

And when all that commotion happened the next morning, when I was out there with the police, I realized it had to be in the bed still.

So when they took the yellow crime scene tape off, I ran back inside to get my meth.

And I seen a -- a pack of cigarettes and a phone laying on the floor, and I scooped all that up.

And then I went and grabbed the meth, and me and Nicky left.

Q. That phone you said you scooped up, did you know who that belonged to?

A. Not at the time.

Q. Did you happen to read any text messages on that phone?

A. Later on, yes, sir.

Q. After reading those text messages, could you determine who was using that phone?

A. Yes, sir.

Q. Okay. Who was using that phone that night?

A. Brendan Varner.

Q. Who did he text?

A. Gabby's number.

Q. And how do you know it was Gabby's number?

A. Because I had seen the number a few times before.

Q. What did that text say?

A. He's at Rose's now.

Q. Do you remember about what time that

was sent?

A. I want to say like seven in the morning.

Q. Who is he?

A. Mark. I want to say there was another text that said, Mark's at Rose's right now.

Q. And you're sure that was from Brendan Varner to Gabby?

A. Yes, sir. It was a phone that he was using from his cousin Mary.

Q. And who is Mary?

A. Mary Chester. That's the girl that picked me up from Berkeley County and took me over to Gabby's.

Q. Did law enforcement ever contact you about this incident?

A. What, about the phone?

Q. About the incident in general. Did you talk to the police about that?

A. The night that me and Alexis was at a friend of mine's house, and when I looked at the phone and I seen that -- the messages in it, I went and took it upon myself to take it to the law enforcement. But I hadn't been contacted.

Q. Why did you do that?

A. Because Mark was a friend of mine and not -- that's -- that's like accessory after the fact, if I'm not mistaken, or something. I didn't want to have nothing to do with it.

Q. So you turned the phones over?

A. Yes, sir.

Q. Did you provide a statement to law enforcement?

A. Yes, sir.

Q. Was that statement that you gave law enforcement the same that you're telling us today?

A. Yes, sir.

MR. STEGALL: Beg the Court's indulgence?

THE COURT: Yes, sir.

MR. STEGALL: No further questions. Please answer anything that Mr. Smaldone asks you.

THE COURT: Cross examination?

MR. SMALDONE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. Mr. Curtis, good morning.

A. Good morning.

Q. Are you doing all right?

A. No.

Q. All right. Well, let's get the obvious out of the way. Are you currently incarcerated?

A. I got a ten-year sentence, ten years to life, yes, sir.

Q. A ten-year sentence?

A. Yes, sir.

Q. Okay. And what's that for?

A. Trafficking heroin.

Q. Okay. All right. So a ten-year sentence. And when did you start that sentence?

A. March of last year.

Q. All right. So let's go back to before all this happened. It's your testimony that you knew Gabby for a couple of months; is that right?

A. I met her -- no, I didn't say that. I just met her a few times.

Q. Okay. Didn't you stay with her at one point?

A. A couple of days, but, no -- not like that. When that girl picked me up, I stayed with her a few days, and I was trying to get plugged in to get a good connection on some ice.

And when that wasn't working out for me, I left.

Q. Okay. So that's a yes, you stayed with

her --

A. A couple of days, yes, sir.

Q. Okay. All right. So you stayed with her. And who is Grayson Griffin?

A. Well, apparently -- I just met him in the holding cell.

Q. Okay.

A. I never met him before.

Q. You never met Grayson before?

A. He was supposed to have been the plug.

Q. What's a plug?

A. The drug dealer, the big drug dealer.

Q. The big drug dealer?

A. Yeah.

Q. And that's Grayson?

A. I don't know him like that.

Q. Okay.

A. Like I said, I just met him in the cell.

Q. All right. Now, you said, though, that you heard Gabby talking on the phone with Grayson?

A. Yes, sir.

Q. All right. And when was that?

A. Right after I got out of jail, cause that's when I stayed -- so 2000 -- September of

2015.

Q. Okay. And you recall the incident at Rose's happened in September of 2015?

A. Yeah. It happened like ten days or something -- right after I got out.

Q. Okay. You heard her on the phone before then, right?

A. Before the incident, yes, sir.

Q. And you heard Gabby on the phone with Grayson?

A. Yes, sir.

Q. How did you know it was Grayson if you never met him until after this?

A. She told me.

Q. Okay. So Gabby told you she was talking to Grayson?

A. Yes, sir.

Q. All right. And you heard it on the speaker phone, right?

A. Yes.

Q. And you said in your direct examination that -- I can't remember. Something about money that she didn't have or money that she owed somebody?

A. That guy, she owed him some money.

Q. Who is him?

A. Grayson.

Q. So Gabby owed Grayson money?

A. (Nodding head)

Q. Okay. And did you hear any threats on the phone or anything like that?

A. Just Grayson saying like, something like he can't let that happen. You know, so people won't try to think they can get away with it. You know what I'm saying?

Q. Okay.

A. But it wasn't no threats or nothing like we're going to go kill this person. Nothing like that.

Q. Right. You never heard anyone planning violence, thought, right?

A. No. No. No.

Q. Do you recall giving a statement to the Solicitor's office about a week ago?

A. Yeah.

Q. And I apologize, I don't have it printed off. Do you recall what you told the Solicitor's office about what you heard Grayson say?

A. Not in the exact words. I just

remember him saying that they cannot let stuff like this happen and people get away with it.

Q. Okay. All right. Would you remember the statement better if I showed you notes from that interview?

A. Or if you just read a piece of it for me.

Q. All right. I'm just going to show it to you. And you just say yes or no, if that helps out your memory. Okay?

MR. SMALDONE: May I approach?

THE COURT: You may.

BY MR. SMALDONE:

Q. And I'm sorry it's just on a laptop, but -- you know, but I'm high tech.

A. I mean, to some extent, yeah.

Q. All right. And what was that -- do you remember better now?

A. I mean, not in the exact words. I just remember him saying like, we can't get away -- you know, can't let them get away with it.

Q. Okay. Just so you know, the jury doesn't know what I just showed you. So do you remember saying what I showed you and, if so, what was it?

A. That Grayson had some guns, and if they let somebody steal something from them, no matter how small it was, then people start thinking they can start doing that kind of thing, and we got to stop it, is basically what he was saying.

Q. Okay. And that's what Grayson said on the phone, right?

A. Yeah. Yes, sir.

Q. Just a couple of more things. You got to Rose's about -- the night that the incident happened, what, about 10:30? Is that what you said?

A. It was dark outside.

Q. It was dark outside?

A. Yes, sir.

Q. All right. And so you said you took Klonopin at one point, right?

A. Yes, sir.

Q. And explain to the jury what Klonopin's effects are on someone.

A. Memory, you don't -- how I want to say it? You will take some and then steal everybody's stuff and wake up in the morning and not remember how you got all the stuff.

Q. Right. Well, that's kind of a more

specific, but is Klonopin an upper or a downer?
A. A downer.
Q. And that makes you tired, right?
A. Yes, sir.
Q. A little more relaxed, right?
A. Yes.
Q. So did you take the Klonopin before or after you did -- you said you did ice at Rose's house, right?
A. I like to do it all together, up and down at the same time.
Q. Okay. All right. So you did it both at once?
A. Yes, sir.
Q. And other people did ice with you at Rose's?
A. Yeah.
Q. Who were those people; do you remember?
A. Everybody in the house.
Q. Everybody in the house?
A. Everybody in the house.
Q. So that's Nicky, right?
A. Yes.
Q. Tommy?
A. Yes. We was all -- everybody --

everybody in that -- everybody in the whole crowd and the whole scene was on drugs.

Q. All right. And it was that night, right?

A. Yes, sir.

Q. And it was ice; it wasn't weed or anything, right?

A. There was a little weed in there too.

Q. But everybody did ice, right?

A. (Nodding head)

Q. And everyone did weed, right?

A. Yes, sir.

Q. But not everyone did the Klonopin, though, right?

A. No.

Q. Okay. Because that's a pill; is that correct?

A. Yeah. I think I'm the only one that took any Klonopin.

MR. SMALDONE: Okay. All right. Beg the Court's indulgence?

BY MR. SMALDONE:

Q. And just to recap what you saw that night, you took the Klonopin and you fell asleep, right?

A. (Nodding head)

Q. And I'm going to guess you probably hadn't slept in a couple days before that, right?

A. No.

Q. That's okay. All right. And so you fell asleep, probably sleeping pretty hard, right?

A. Yes, sir.

Q. And you heard a noise, right? Obviously, a loud noise, right?

A. (Nodding head)

Q. And then at that point, you just left, right?

A. No. Nicky pushed me off the bed -- or Alexis pushed me off the bed, and when I sat up, it was foggy and you couldn't breathe, you couldn't open your eyes up. And Mark was saying, he got me, he got me.

And Alexis went and got him on the front porch.

Q. Okay.

A. And then when police come out and took statements and all, then I went back inside and got my dope and the phone and all. And then we left.

Q. Okay. Then you left. So you put the dope in your car or in the woods?

A. In my pocket.

Q. In your pocket? Okay. And then how did you leave, car or on foot?

A. Foot.

Q. Okay. All right. So you never -- because you were asleep, you didn't see who came in that house or who didn't come in the house, right?

A. No, sir.

MR. SMALDONE: All right. I think -- that's all the questions I have for you. Thank you.

THE COURT: Any redirect?

MR. STEGALL: Nothing on redirect, Your Honor.

THE COURT: You may step down, sir. Thank you.

You may call your next witness.

MS. SMITH: Thank you, Judge. The State calls Whitney Chance.

WHITNEY RENEE CHANCE,

being first duly sworn, testified as follows:

THE CLERK: Please be seated. State your full name, and spell your last name for the record.

THE WITNESS: Whitney Renee Chance,

C-H-A-N-C-E.

THE COURT: Your witness.

MS. SMITH: Thank you, Judge.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Good morning, Whitney. How are you?

A. Good. How are you?

Q. I'm doing well. Where do you work?

A. I work on College Park at Joe Bessinger's Barbecue.

Q. Okay. And where do you live?

A. I live off [redacted] in Windwood.

Q. Okay. How long have you lived in this area?

A. All my life.

Q. Okay. Do you know Mark Connor?

A. Yes, ma'am.

Q. What was your relationship with Mr. Connor?

A. He was my friend, but he knew my boyfriend more than me, though. So I was with my boyfriend at the time and they were real close friends, and I got to know him, you know.

Q. Can I ask you to pull your microphone down a little bit so that we can all hear you.

Thank you.

A. I'm sorry.

Q. No, you're fine. I appreciate it.

Were you with Mark Connor on the night of September 26th, 2015, and into the morning of September 27th?

A. Yes, ma'am.

Q. How did that come to be?

A. He and my boyfriend was helping to put the truck together, I think in Jedburg or something like that, where his sister lived at. So he got in the truck and then he left from there, and we started hanging out, but, like --

Q. And who was your boyfriend at the time?

A. Nick Varner.

Q. Okay. That night of September 26th, where were you guys hanging out at with Mark?

A. At first we were at Rick Curtis's house, and then we went to Rose's house, which I didn't even know whose house that was, you know.

Q. How was Mark acting while you were with him that day?

A. He seemed kind of worried a little bit. You know what I'm saying? He kept telling Nick, you know, he hoped he had his back, you know, or he

seemed tired. I don't know if he was scared or what it was.

Q. Did you know why?

A. No. He just told me that he got what was his. And that's all I knew, you know.

Q. When you went over to Rick Curtis's house, what did you do there?

A. At first they were fighting, and then -- you know, it was with Tommy Kennedy and they were fighting. And Markey left, and he come back for some reason, you know, and they were cool then, you know.

Q. Okay. And afterwards is when you went to Miss Rose's?

A. Yes, ma'am.

Q. What did you do at Miss Rose's?

A. Well, me and Nick sat on the couch, or whatever, and Markey and, you know, Rick and the other girl, they went into the room. So I don't even know what they were doing.

Q. Okay. Who all was at Miss Rose's with you all?

A. Me, Nick, Markey, I don't know the other -- I forget the other guy. It was Nicky, I think her name was, and then Tom Kennedy and

Brandon.

Q. Who is Brandon?

A. Brandon Varner.

Q. Does he have a nickname?

A. Bird.

Q. Did you, ultimately, fall asleep at Miss Rose's that night?

A. Yes, ma'am.

Q. And did you, ultimately, wake up the next morning?

A. Yeah, like hell.

Q. What did you wake up to?

A. I guess it was mace or something in my face and a bunch of noise and --

Q. What was the noise?

A. Somebody spraying mace and running through the front door, you know.

Q. There are tissues, if you need them.

A. And it was like noise, like a -- it happened so fast I had to rethink about what happened, you know, over again.

You know, like, I don't even know these people, but -- you know, I kind of knew Gabby maybe like -- I don't even know her, you know, really honestly, but, I mean, my boyfriend knew her, and

we started hanging out.

I hung out with her a couple times, like, but I knew her, you know, like I knew -- I could see her, you know.

Q. When did Gabby get there?

A. She got there the same time, I guess, as the guys that come through the door.

Q. Did she come through the door?

A. Yes, ma'am.

Q. What did she come through the door doing?

A. She was screaming like, where is Markey? Where is Markey? She'd seen 'em come through there, or something like that, I mean. And, you know, she -- and they ran into the room, I guess, where he was at, you know.

Q. And what happened when she ran into the room?

A. I guess they got in like a scuffle or something, and all I know is she told him to shoot him.

Q. She told who to shoot him?

A. I don't even know. I heard her say that. You know, I was in the living room, and they were all in the room, you know.

Q. Shoot who?

A. I guess Markey.

Q. Did Markey get shot?

A. Yes, ma'am.

Q. What happened after she yelled shoot him?

A. He shot him.

Q. And then what happened?

A. And then I guess they ran out, you know, and they were -- they all run out. And, you know, I'm still dying from, I guess, mace or whatever they were spraying all in the air.

And Nick goes, Markey. And so he gets up and he goes -- he kicks the whole side of the door down where, you know, the bathroom is all at. He kicked the whole wall down and he run in there.

And he tells me what happened in there, but I didn't see it, you know. And he was, call 911. So I called 911, and I ran outside. And he picked him up and towed him to the front porch.

You know, I didn't even know where I was at. I didn't know whose house I was at. You know, the guy across the street had to tell me where to tell 911 I was at, you know.

Q. When you -- where were you when

everybody came in through the front door?

A. I was on the couch.

Q. And at that point in time, did you feel like you were free to leave?

A. No.

Q. Why not?

A. How would you? I mean, like, you honestly don't know when somebody is screaming and, like, all this noise, and you can't even breathe, you're just kind of like suffering to breathe, you know. I mean, how are you even going to get up to leave anyway, you know?

MS. SMITH: Beg the Court's indulgence?

BY MS. SMITH:

Q. Whitney, did you see who was spraying the mace?

A. No.

Q. Was the mace painful?

A. Very. Like, it was after -- like hours after I had got sprayed, it was, like, kind of went away, and then it come back. And it burned so bad I just --

Q. Were you sprayed directly in your face, or where was it?

A. I think they were just trying to spray

the whole house. It like brushed me and it was like breathtaking. It was like all in the air, and you had to look down because there was so much like fog, like something sprayed.

I mean, I have never been like that before that, you know. It was like a fire on me kind of like burning me.

MS. SMITH: Okay. I don't have any further questions for you right now, Whitney. I appreciate it.

THE COURT: Cross examination?

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. Ms. Chance, good morning.

A. Good morning. How are you?

Q. I'm all right. I don't believe we've met. My name is Grant Smaldone, I'm an attorney, I'm just going to ask you a few questions. Okay?

A. Yes, sir.

Q. I just want to make sure that we don't talk over each other. You answer loud and clear and a little bit slowly because this nice court reporter here has to write down everything we're saying. All right?

A. Yes, sir.

Q. So you got to that house at about, what, 11:30?
A. I really don't know the time I got there, honestly. I know it was late though.
Q. Late night?
A. I know it was after 9:00.
Q. Okay. And I can't remember, who did you ride there with?
A. To --
Q. Miss Rose's house.
A. With everybody in the car.
Q. So everybody was riding together. And that was in like a Yukon, I think?
A. Yes, sir.
Q. Okay. And you got there late night, hung out. Did you do any drugs when you were there?
A. No, sir.
Q. Okay. No drugs.
A. No, sir.
Q. There were no drugs at that house?
A. At the time, I didn't know if there was.
Q. Okay.
A. Because I'm going to be honest with

you, I had just become homeless.

Q. Okay.

A. And, you know, Nick kind of helped me out. I'm saying, it was like I was -- I knew what was going on. Like, everybody else knew, you know, honestly like -- I guess, I mean --

Q. Okay.

A. Like I said, I didn't know -- I didn't even know, you know, the house I was at was like a trap house. I didn't even know that until after everything happened, you know.

It wasn't like it was -- it was like a new thing to me, you know.

Q. Okay. So you got there with everyone. So everyone got there at the same time. Late night, though, right?

A. I mean, yes. I mean --

Q. All right.

A. It was probably 4:30. There was a little clock on the TV, and I remember seeing that, you know.

Q. Okay. And you were in the living room?

A. Yes, sir.

Q. All right. And then Nicky and some other people were in the bedroom, right?

A. Uh-huh.
Q. Okay. And you feel asleep, what did you say? 4:30ish?
A. Yes, somewhere around there.
Q. All right. And you woke up about seven when this happened, correct?
A. I know it was getting daylight when I went outside.
Q. Okay. So you could see a little bit of light outside, right?
A. Yes, sir.
Q. Okay. So enough light to kind of see someone's face, right?
A. Uh-huh.
Q. Okay. And everything happens. And how many -- you said how many people? Two people came in that house?
A. No, five.
Q. Five people came in the house. Okay. And what were they, four males and a female?
A. Yes, sir.
Q. All right. And you didn't know anyone there except you recognized Gabby, right?
A. Yes, sir.
Q. All right. And what was Gabby wearing?

A. She had a hat on, I can't remember what shirt, and I think she had a white pair of shorts on.

Q. White shorts?

A. I'm pretty sure.

Q. Do you remember what color shoes?

A. No.

Q. All right. Was she wearing anything like a bandana or anything like that?

A. No.

Q. No?

A. No.

Q. Okay. And so you gave a statement to law enforcement that same day, right? Do you remember that?

A. Yes, sir.

Q. Okay. And that was right after this crime happened, right? Right after the incident, correct?

A. Yes, sir.

Q. And you wanted to talk to law enforcement, right?

A. (No response)

Q. Did they make you talk to them, or were you willing to help them out?

A. No. I did it because, you know, he didn't deserve that, you know.

Q. Right.

A. He didn't deserve what he got. Regardless of what he done, he didn't deserve that.

Q. Oh, I understand. So you wanted to help out with law enforcement, which is okay, and that was your goal in giving the statement, right?

A. Yes. Would that be a problem?

Q. That was a question.

A. I was just asking, you know.

Q. Yes or no?

A. No.

Q. All right. So at the time, everybody who went into that house was still -- to your knowledge, still on the loose, right?

A. What do you mean on the loose?

Q. Did law enforcement tell you that anyone had been arrested at the point you gave that statement?

A. No, sir.

Q. All right. So you wanted a full -- you wanted the statement to be helpful to law enforcement so they would know what happened, right?

A. Yes, sir.

MR. SMALDONE: May I approach?

THE COURT: You may.

BY MR. SMALDONE:

Q. Is this the statement you gave in your handwriting?

A. That's not my handwriting.

Q. Okay. Is that the statement you gave -- did someone else write that for you?

A. I'm not sure, but I know I wrote my own.

Q. Okay. And this isn't the statement that you wrote?

A. No; that's not my handwriting.

Q. Okay. And what was your name?

A. Whitney Chance.

Q. All right. So, is this a forgery?

A. I don't know. That's not my handwriting, though. Let me see.

Q. Okay.

A. No; that's not my handwriting.

Q. All right. So you did not give that statement that's in your name?

A. Yes. I did this, but this doesn't look like my handwriting.

Q. All right. Do you remember talking to an officer who was maybe writing it down for you?

A. I don't know. I was talking to a tall -- like, a big guy.

Q. A big guy? Do you remember that being possibly Detective Wilson?

A. I'm not sure that's his name.

Q. All right.

MR. SMALDONE: I beg the Court's indulgence?

THE WITNESS: It's not my handwriting.

MR. SMALDONE: All right. May I approach once again?

THE COURT: You may.

BY MR. SMALDONE:

Q. Is this your signature at least?

A. Yes, sir.

Q. All right. This is your signature, that's not your handwriting?

A. No. I know how I write.

Q. Do you remember signing anything?

A. Because I wrote one. I wrote one and I signed it.

Q. And that's not it?

A. I don't -- I do not write like this.

Q. Okay. Do you remember what you signed?

A. I signed what I wrote. What this says right there, I didn't write this. I don't know where I wrote -- because it was something totally different than this. It looks like --

Q. All right.

A. Are you trying to tell me like -- I don't understand.

Q. And I'm asking the questions. I'm wondering who wrote that statement at this point, because I have a statement that you're saying is a forgery. Is that what you're saying?

A. No. I mean, I know I wrote one, though. That's what I'm telling you.

Q. Okay.

A. But this is like -- I mean, it was like two pages worth of stuff.

Q. All right. So that is not -- is that -- or is that not your statement?

A. Yes, sir. It's mine then, yes. It says what I wrote, but --

Q. All right. So it's possible because you had pepper spray in your eyes -- would it be very possible that somebody else wrote it for you and you signed it?

A. I mean, it --
Q. Is that possible?
A. It's possible.
Q. Okay. Because I have a statement -- and I'll show it to you one more time. Is there anything in this statement that you may or may not have written that says anything about Gabby saying to shoot him?
A. No. She told him to do that.
Q. Is that in your statement that you gave the same day to law enforcement, whether or not you gave it?
A. I don't remember. I mean, it says what I said -- no, it doesn't say that. I mean, it says, when she runs to the bedroom yelling, where is Markey --
Q. Right. So you say she says, where is Markey, the day it happened, but nothing about telling them to shoot him, right?
A. And like I said before, I had to rethink about everything that happened all over again, because it happened so fast and I couldn't -- you know.
Q. Right. And that statement was made the same day as the shooting, right?

A. Yes, sir.

Q. And now we're -- and that was over three and a half years ago, right?

A. Yes. It's been a long time.

Q. All right. Would you say your memory about -- would you say your memory gets better over time or worse over time?

A. I mean, you know, after a time you think about more things that occurred in the house, like things that you could have looked at about what happened and -- you know what I'm saying? Not have yourself in that situation and --

Q. Okay. So you thought about it, but would you say your memory is better the day it happened or now?

A. Now.

Q. Better now than the day it happened. Okay. All right.

MR. SMALDONE: May I approach to get this?

THE COURT: You may.

MR. SMALDONE: And I have no further questions.

THE COURT: Any redirect?

MS. SMITH: Just one.

REDIRECT EXAMINATION

BY MS. SMITH:

Q. Does it surprise you that you may have left out one detail in a statement that was given immediately following being pepper sprayed and watching your friend die?

A. No, because I know what I heard and he suffered. I watched him die in my face.

Q. And what did you hear Gabby say?

A. She told him to shoot him.

MS. SMITH: Nothing further, Judge.

THE COURT: You may step down, ma'am. Thank you.

You may call your next witness.

MR. STEGALL: The State calls Sergeant Shane Cook.

SHANE COOK,

being first duly sworn, testified as follows:

THE CLERK: Please be seated. State your full name, and spell your last name for the record.

THE WITNESS: Sergeant Shane Cook, C-O-O-K.

DIRECT EXAMINATION

BY MR. STEGALL:

Q. Sergeant Cook, who are you currently employed with?

A. The Berkeley County Sheriff's Office.

Q. How long have you been employed with Berkeley County?

A. About five and a half years now.

Q. So were you with Berkeley County during September of 2015?

A. I was.

Q. Okay. Briefly describe your duty and job responsibilities for the jury, please.

A. At the time, I was assigned to the criminal investigations division. I was in charge of anything ranging from property crimes to violent crimes, homicides, armed robberies at that time.

Q. And what was your role in criminal investigations?

A. I was a general investigator. This particular case, I handled general investigation work with search warrants, gun ATF traces, and things of that nature.

Q. Were you on duty the morning of September 27th, 2015?

A. I was called out for a detective call.

Q. Okay. Do you remember why you were

called out?

A. We were notified of a shooting that happened at 512 McCrystal Circle in Moncks Corner within Berkeley County.

Q. When you arrived, were you able to obtain details about the incident?

A. I obtained a little bit of details. I never actually went inside the crime scene or the house. My role in this was follow-up investigation, meeting with witnesses, and doing background investigations, things of that nature.

Q. Okay. When you arrived, did you -- did you make contact with any witnesses?

A. Yes, I did.

Q. Okay. And who was that?

A. Mary Chester.

Q. Okay. And did you take a statement from Ms. Chester?

A. Not on the scene. We requested that she respond to the sheriff's office. That way the statement would be obtained there.

Q. Okay. After speaking with Ms. Chester and investigating, were you able to come up with a name, a suspect?

A. Yes. We had four names that were

provided to us. One was Gabrielle Kocsis Davis, another one was Matthew Grainger and Glenn Lane, Grayson Griffin.

And then we had an additional name provided later on in the case as Curtis Jamison.

Q. Okay. Did you go to any other residences during your investigation?

A. Yes, sir.

Q. Okay. Where did you go next?

A. [redacted] Shelby Lane, which is also in the Moncks Corner area.

Q. Okay. Whose residence was that?

A. That was said to be Gabby's address, where she was staying.

Q. Were you able to collect any evidence from this case?

A. Yes, we were.

Q. Okay. What location did you collect evidence from?

A. Several locations. One was [redacted] Shelby, where we collected the victim's ID and credit cards. We also went to Glenn Lane's address in North Charleston and we collected a couple of firearms, ammunition.

And deputies also responded to Artisan

Court in Dorchester County where another co-defendant was apprehended and evidence was turned over from them as well.

Q. Okay. Let's back up to where you said Glenn Lane's residence. Do you remember the exact address? If not, that's okay.

A. I can take a look at my notes. [redacted] Oakridge Drive in North Charleston, which is in Charleston County.

Q. Okay. Did you-all obtain a search warrant for that residence?

A. We did. And it was signed by a Charleston County magistrate.

Q. Okay. Did you enter once you obtained the warrant?

A. Excuse me?

Q. Did you wait until you obtained that warrant before you entered?

A. Yes.

Q. Was anybody home?

A. Yes. Glenn Lane was.

Q. Okay. What happened to him?

A. He was placed under arrest at that time. No further questioning was done on the roadside. He was taken to the Berkeley County

Sheriff's Office.

Q. Okay. And you said you collected evidence at that residence. Can you talk about what you collected?

A. Sure. One of the items that we located in one of the bedrooms was a Bersa .380 semiautomatic handgun, and also located a .380 and .9 millimeter ammunition.

Outside of the back door on a bench there was a black gym bag or duffle bag that had some clothing items in it; also, some of that was from earlier that day.

There was a white cloth -- or a T-shirt that we located inside and it resembled the shape of a handgun. And once we opened the cloth, we observed a Smith and Wesson semiautomatic handgun inside.

Q. So the cloth was around the handgun?

A. That's correct.

Q. Okay.

MR. STEGALL: May I approach the witness, Your Honor?

THE COURT: You may.

BY MR. STEGALL:

Q. I'm going to hand you what's been

premarked as State's Exhibit 14. I want you to take a look at that and see if you recognize it.

A. Yes. This is the firearm that was located at the address. The serial number matches from our report.

Q. Okay. Has it been cleared and made in a safe condition?

A. Yes, it has.

Q. Okay.

MR. STEGALL: Your Honor, at this time, the State moves to enter State's Exhibit 14 into evidence.

THE COURT: Any objection?

MR. SMALDONE: No objection.

THE COURT: All right. It's in.

(PLF. EXH. 14, Firearm, in evidence.)

BY MR. STEGALL:

Q. Okay. What did you do next?

A. Once we obtain a firearm, if we can't identify an owner, we'll do an ATF trace on the firearm to find out who it was originally purchased by.

Q. Were you able to do that on this firearm?

A. I was.

Q. Were you able to identify an owner through your trace?

A. I was. Once I obtained the ATF trace results back, the firearm -- bear with me, let me go through my notes. The firearm originally came back to a Steven James Bishop in Ehrhardt. We were able to locate a phone number and made contact with him.

He had since sold that firearm to a Joshua Edwards. From there, I made contact with Mr. Edwards, and he provided information that he sold the firearm to a Steven Dildono in Summerville. From there, Mr. Dildono had sold the firearm to a co-worker, Jimmy Crow, who owned Crow's Auto Shop, doing auto repairs and things of that nature.

And when I spoke with Mr. Crow, he said that on September 26, 2015, he sold the firearm to Grayson Griffin. Mr. Griffin had brought his 2013 Dodge Charger to the body shop to get worked on, and Mr. Griffin had offered $700 for that firearm.

He said it was too good to pass it up, so he sold the firearm to him.

Q. What other investigative work did you do related to this case?

A. I had an opportunity to speak with a witness who identified a possible location of where Mr. Grainger was at. The US Marshals ended up following up on that lead, and Mr. Grainger was taken into custody at that time.

That was at Augustine Court. It's 989 Augustine Court in Summerville which is in Dorchester County.

Other involvement was obtaining search warrants on phones. And we also did an extradition order with Effingham County, which is in Georgia, to take into custody Mr. Griffin -- where they had taken into custody him and -- as well as Ms. Kocsis Davis.

Q. Did you interview any other witnesses?

A. Yes, I did.

Q. Who did you interview?

A. Ms. Mary Chester, as I stated, the night of the incident, as well as a Sonya Heron and Ashley Krouse, I believe the last name was.

Q. Okay. Based on your interview with those witnesses, were you able to determine a motive or sort of any further detail what happened?

A. It was my understanding through the investigation and through the information that I

received that money was owed to Gabby and a, quote, unquote, hit was put out on him for that money to be returned back to her.

Q. Now, you mentioned five co-defendants. I believe, Matthew Grainger, Glenn Lane, Grayson Griffin, Curtis Jamison, and Gabby Davis?

A. That's correct.

Q. Do you know if any of those five cases have been resolved?

A. Yes; I know of two as of right now.

Q. And who are those two?

A. Grainger, he has pled to murder; and Curtis Jamison has pled guilty to obstruction of justice.

Q. Okay. How do you come about information on dispositions of cases?

A. One of the ways that we look for dispositions is the Berkeley County Public Index will show what the disposition of the case is and what filings there are, if there's any motions to reopen or anything like that.

And with those two cases, there's no -- there hasn't been filings for any motions to reopen the case. The case has been disposed of at this time.

Q. Okay. Does that conclude your involvement in this case?

A. Yes, it does.

MR. STEGALL: The Court's indulgence?

No further questions.

THE COURT: Cross examination?

MR. SMALDONE: Nothing for this witness, Your Honor.

THE COURT: You may step down, sir. Thank you.

You may call your next witness.

MS. SMITH: The State calls Dr. Angelina Phillips.

ANGELINA PHILLIPS,

being first duly sworn, testified as follows:

THE CLERK: Please be seated. State your full name, and spell your last name for the record.

THE WITNESS: Angelina Phillips, P-H-I-L-L-I-P-S.

THE COURT: Your witness.

MS. SMITH: Thank you, Judge.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Good morning, Dr. Phillips. Where are

you employed?

A. The Medical University of South Carolina.

Q. And what is your position at MUSC?

A. I'm a forensic pathologist.

Q. How long have you been employed at MUSC?

A. Four years.

Q. Are you a licensed physician in the state of South Carolina?

A. Yes.

Q. Where did you receive your medical training?

A. I did my medical training in Upstate New York at the State University of New York.

Q. And what -- can you describe for the jury your professional experience in the field of forensic pathology?

A. Yes. So I have been trained in anatomic and clinical pathology, and then underwent subspecialty training in forensic pathology before starting my practice in forensic pathology for the last three years at MUSC.

Q. And can you explain to the jury what the field of forensic pathology consists of?

A. Yes. Forensic pathology is a subsection of the field of pathology. Pathology itself is laboratory medicine, and that falls into the anatomic and clinical.

Anatomic, which is where forensics would fall under, includes autopsy pathology, and that is the performance of autopsies for -- in the forensic setting for the determination of cause and manner of death.

Q. And are you board certified in the area of forensic pathology?

A. Yes.

Q. What are the requirements for certification in that field?

A. For forensic pathology you need to complete a year long fellowship in forensic pathology, which is an additional year in addition to our basic pathology training.

You have to complete a minimum of 250 autopsies. Again, in addition to these autopsies you perform for your basic pathology training, and you sit for a national board examination.

Q. This is a national certification?

A. Yes.

Q. Do you perform autopsies as part of

your employment at MUSC?

A. Yes.

Q. And how many autopsies have you performed while you've been affiliated with MUSC?

A. Approximately, 950.

Q. And how many autopsies have you performed, approximately, during the -- during your entire career?

A. Over a thousand.

Q. Have you previously been qualified as an expert in the field of forensic pathology?

A. Yes.

Q. How many times?

A. Excuse me. Approximately, 12 times.

Q. And in what courts?

A. That would be Charleston, Beaufort, Jasper, Florence, Marion County, and, of course, Berkeley County.

Q. So state courts?

A. Yes.

Q. No federal courts?

A. No.

MS. SMITH: Judge, at this time the State would offer Dr. Angelina Phillips as an expert in the field of forensic pathology.

THE COURT: Any voir dire?

MR. SMALDONE: No voir dire or objection.

THE COURT: The Court finds that she is qualified as an expert.

Ladies and gentlemen of the jury, normally a person cannot give opinion testimony. Normally, when a person testifies they must testify as to what they either saw, heard, sensed by smell, or something of that nature; however, there is an exception when someone is qualified because of education or experience, they are permitted to give their opinion in certain areas if the court qualifies them that way.

Dr. Phillips will be qualified in the area of forensic pathology to give opinion testimony in that area. That does not mean that you must accept her opinion, but it is evidence for you to use in any way and give it the weight and the credibility that you deem is appropriate.

You may proceed.

MS. SMITH: Thank you, Your Honor.

BY MS. SMITH:

Q. While you were affiliated with MUSC, did you have the occasion to perform an autopsy of

Mark Connor on September 28, 2015?

A. Yes.

Q. And can you tell the jury what Mr. Connor's age was?

A. He was -- and I'll verify it in my report. He was 32 years old.

Q. And what was his height?

A. He was, I believe, 67 inches -- 67 and a half inches as reported.

Q. And what was his weight?

A. 135 pounds.

Q. And can you please explain what is the purpose -- what are you attempting to accomplish when you perform an autopsy?

A. So the autopsy itself is the external and internal examination of the body. We are attempting to document the -- any natural disease or injuries that have caused death, and in that, come up with a specific cause and then determine manner of death.

Q. And is this at the request of someone specific?

A. Our -- in our case it is at the request of the coroner.

Q. Of the county of Berkeley?

A. Yes.

Q. As part of your autopsy in this case, did you perform an external examination of Mr. Connor?

A. Yes.

Q. And based upon your external examination of Mr. Connor's body, did you locate any evidence of recent injury?

A. He had a gunshot wound to the left thigh.

Q. Were you able to determine an entrance and a pathway of that gunshot wound?

A. Yes.

Q. And what was that?

A. The entrance wound is -- was at the lateral aspect of the outside side of his left thigh, and it traveled upwards and to the right in his body before a bullet came to rest in one of the muscles of his internal pelvic region.

Q. And can you please describe for the jury the damage that this bullet caused during its path?

A. Yes. I can give you the list of things that it injured as it was going along a pathway. After perforating the skin and going through the

subcutaneous tissues under the skin, it disrupted the muscles in the area of the thigh, parts of the left pelvic bone, the bladder, the appendix, and then the right internal iliac artery, which is a branch off of the aorta that goes down into the leg.

In addition to that, there was hemorrhage into the soft tissues in the pelvis and hemoperitoneum, which is blood in the pelvic region and abdomen.

Q. Can you explain to the jury how this particular gunshot wound can cause death and did cause Mr. Connor's death?

A. Yes. So, in general, one would not expect a gunshot wound to the thigh to cause death unless it injured something major. In this case, that major thing would be the internal iliac artery.

An artery is a vessel that has very high pressure when the blood is pumping through it, and the disruption of that artery caused Mr. Connor to lose a fair amount of blood. He had approximately 1,000 ml of blood.

For reference, the human body has upwards of 4 to 5, maybe one extra for men,

depending on their weight, liters of blood in the body at any given time. If you lose about a thousand or a little bit more than that, you can start to feel the effects of it and that can lead to death.

Q. And you did observe this associated blood loss due to the gunshot wound?

A. Yes.

Q. And as part of your autopsy, were x-rays taken which depict the location of the gunshot wound suffered by the victim?

A. X-rays are performed on all gunshot wound victims, and it would highlight the location of the bullet.

MS. SMITH: May I approach?

THE COURT: You may.

BY MS. SMITH:

Q. Dr. Phillips, I'm showing you what has been marked for identification as State's Exhibit 15. Do you recognize this?

A. Yes.

Q. What is that?

A. That is an x-ray of the decedent's abdomen and pelvis.

Q. And does it fairly and accurately

depict the injury that Mark Connor suffered as a result of this gunshot?

A. It does highlight the location of the bullet, and I don't know that it would really depict the injury.

Q. Does it fairly and accurately reflect the location where this bullet came to rest inside Mark Connor's body?

A. Yes.

MS. SMITH: Judge, at this time the State offers to admit Exhibit 15 into evidence.

THE COURT: Any objection?

MR. SMALDONE: No objection.

THE COURT: Admitted.

MS. SMITH: May we publish, Judge?

THE COURT: You may.

BY MS. SMITH:

Q. Can you please describe where this bullet was, and if you are able to, show the path that it took?

A. So we took an x-ray of the abdomen and pelvis. The markers show us which side of the body, if you're looking at the body from the front to the back. The marker says it's on the left. The left side is here. (Indicating)

The bullet was in at the left side, on the lateral side over here. On x-rays you can't really see soft tissue damage very well, but you can see damage to any bones and sometimes you can pick out internal organ damage.

The very bright-looking object here, and a few of these small fragments here are -- represent the bullet, that's the bullet, and the fragments off of the bullet. And it traveled along a pathway similar to the line I'm pointing here, coming from left, across to the right. (Indicating)

It appears to be sitting in bone, but you're looking at a three dimensional structure on a flat surface. It actually is sitting in the soft tissue muscles that comes right along the inner aspect of that bone.

Q. Thank you, Dr. Phillips. Were you able to recover this bullet from inside Mark Connor?

A. Yes.

Q. And after you recovered it, did you take it into evidence and store it for detectives?

A. Yes. We transferred it to the detectives that were there.

Q. And did you -- do you recall which

officer you transferred it to?

A. I can give you the name from the report. We transferred the evidence to Michelle Ward of the Berkeley County Sheriff's Office.

MS. SMITH: Judge, may I approach the witness?

THE COURT: You may.

BY MS. SMITH:

Q. Dr. Phillips, I am showing you what has been marked for identification as State's Exhibit 15. Can you take a look at that and tell me if you recognize what it is.

THE COURT: Wasn't the last exhibit 15?

MS. SMITH: I apologize, State's 16. I misspoke, Judge.

THE WITNESS: The smaller packet inside is our transfer packet which contains the bullet.

BY MS. SMITH:

Q. And that's the bullet that you recovered from Mark Connor?

A. Yes.

Q. And does it fairly and accurately represent the bullet you removed from his body on September 28th, 2015?

A. It does.

MS. SMITH: Judge, at this time we offer -- we move to admit State's Exhibit 16 into evidence.

THE COURT: Any objection?

MR. SMALDONE: No objection.

THE COURT: All right. It's in.

(PLF. EXH. 16, bullet, in evidence.)

BY MS. SMITH:

Q. Dr. Phillips, based upon the findings from your autopsy, do you have an opinion based upon a reasonable degree of medical certainty as to the manner and cause of death in this case?

A. Yes.

Q. And what is that opinion?

A. The cause of death is a gunshot wound to the left thigh, and the manner of death is homicide.

MS. SMITH: I don't have any further questions. I will collect Exhibit 16. Thank you.

THE COURT: Cross examination?

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. Good morning, Doctor.

A. Good morning.

Q. All right. And you work at MUSC?

A. Yes.

Q. Okay. And you've had the chance to perform the autopsy on what -- do you recall what day that was?

A. I performed the autopsy on the 28th of September.

Q. All right. And you witnessed -- obviously, it was more than just the x-ray. You saw Mr. Conner and --

A. Yes.

Q. -- you saw where the gunshot entered him, right?

A. Correct.

Q. All right. And that was on, what? The left thigh?

A. Left thigh, lateral aspect.

Q. Okay. And what exactly does that mean, just for the jury?

A. So when we examine the body, we are looking at them laying on the table. The lateral aspect is the outermost aspect of the thigh.

Q. So outer thigh --

A. Yes.

Q. -- correct? Like this. (Indicating) Pointing to my outer thigh for the Court Reporter.

All right. So it went in through the outer thigh, and it had an upward trajectory?

A. Yes.

Q. Okay. And it came to rest in --

A. The right psoas muscle, which is in the inside portion of the right side of the pelvis.

Q. Okay. So it came -- what part of the outer thigh? Was that upper, lower, middle?

A. I can tell you the location of that. It was about 33 and a half inches from the top of the head, but just to make that seem a little -- it was about three feet. I would say the upper to mid portion of the thigh.

Q. Okay. And is that the only -- and then you extracted the bullet, right?

A. Yes.

Q. And that's the only thing you had to do with the case, right?

A. No.

Q. Okay.

A. So the entire autopsy process, we examine all -- you know, we begin by doing an external examination. So I document any injuries or natural disease that I see, which is documenting the location of the gunshot wound and -- on the

outside.

And then we performed the internal examination. We got a complete autopsy so we examined all organs, and then I traced the pathway of the bullet through the tissues to identify where it was, what was injured, and then identified the location of the bullet in the body, removed it, and generated a report.

We also have to transfer evidence and then subsequently come here to testify as needed.

Q. Right, and I'm sorry. I didn't want to minimize your role in it, but, I mean, other than the autopsy and everything involved with that and everything you said, which is certainly laborious, that was your role in this case, right?

A. Yes.

Q. So, I apologize if I belittled what you did.

A. Well --

Q. So you had a good bit to do with the autopsy and all that.

MR. SMALDONE: I'm sorry, I beg the Court's indulgence. I lost my train of thought.

BY MR. SMALDONE:

Q. Now, just so the jury knows, you said

there's the cause and manner of death, correct?

A. Yes.

Q. And those are two different things, right?

A. Yes.

Q. I believe -- I always get it mixed up, but the manner, there's only like five different manners --

A. Correct.

Q. -- right? And what are those manners?

A. That would be natural, accident, suicide, homicide, and undetermined.

Q. Okay. That's five, I think, right?

A. Yes.

Q. All right. And now, when you say -- obviously, we know what accident is. It's an accident, right?

A. Right.

Q. And then suicide is self-inflicted. And, of course, homicide is what this was, right?

A. Yes.

Q. And just -- and then there's the -- that's the manner, and the cause is the specific one, correct?

A. Cause is what actually caused the

person to die, so the injury or natural disease that led to their death.

Q. All right. And just to be clear, when you say manner, when homicide -- homicide is a medical term, correct?

A. It's not a medical term so much as it's a classification system we use. It can have little, if any, legal ramification, I'm sure that you know.

It is just a classification system we use as forensic pathologists and medical professionals applying what we know to classify death for just epidemiology purposes, and that's the option that we have.

Q. Right. So it's not a legal conclusion; it's a medical classification, right?

A. It's not a legal conclusion, but it's not really a medical classification.

Q. Okay. It's what you said in the last answer, whatever?

A. Yes.

MR. SMALDONE: Okay. And I don't have any further questions for you. Thank you.

THE COURT: Any redirect?

MS. SMITH: No redirect.

THE COURT: Thank you, Doctor. You may step down.

THE WITNESS: Thank you.

MR. STEGALL: Your Honor, may we approach?

THE COURT: Sure.

(Bench conference)

THE COURT: Ladies and gentlemen, it's almost 11, and we've been going full throttle all morning so it's a good time for us to take our morning break. If you would please go to your jury room.

Please remember my previous instructions not to discuss the case amongst yourselves or with anyone else. We will be right back with you.

(Jury out, 11:02 a.m.)

THE COURT: We will be at ease for a few minutes.

(A recess transpired.)

THE COURT: Are the parties ready to proceed?

MR. STEGALL: The State is ready, Your Honor.

MR. SMALDONE: The defense is ready.

THE COURT: Let's have our jury, please.

(Jury in, 11:26 a.m.)

THE COURT: Welcome back, ladies and gentlemen of the jury. We are now ready to proceed.

You may call your next witness.

MS. SMITH: Thank you, Your Honor. The State calls Michelle Eichenmiller.

MICHELLE EICHENMILLER,

being first duly sworn, testified as follows:

THE CLERK: Please be seated. State your full name, and spell your last name for the record.

THE WITNESS: My name is Michelle Eichenmiller, E-I-C-H-E-N-M-I-L-L-E-R.

THE COURT: Your witness.

MS. SMITH: Thank you, Judge.

DIRECT EXAMINATION

BY MS. SMITH:

Q. Good morning, Ms. Eichenmiller. How are you?

A. Good morning. I'm fine.

Q. Where are you employed?

A. I work at the South Carolina Law

Enforcement Division, otherwise known as SLED. I work in the forensic lab in the firearms department.

Q. Do you have a rank with SLED?

A. Just a senior agent.

Q. Okay. And how long have you been with SLED?

A. Thirteen years.

Q. At SLED what is your role and responsibility as a senior agent?

A. I'm a forensic firearms examiner, so my job at SLED is to examine any evidence that comes in from crime scenes anywhere in the state that involves firearms or fired ammunition components.

Q. How long have you worked in firearms analysis and identification?

A. Thirteen years.

Q. What does the field of firearms identification and analysis consist of?

A. It's the branch of forensic science that deals with any fired evidence from a crime scene, fired cartridge cases, fired bullets, the firearms that could have fired them.

Also, other small items that we deal with like serial numbers when they're obliterated

on firearms, we try to restore them, and we also do toolmark identification.

Q. And can you explain for the jury what your educational background is?

A. I have a bachelor's degree in biology, and I also have a master of science in forensic science.

Q. And do you have any specialized training that you can tell us about in the field of firearms identification?

A. In order to be a firearms examiner, there is no school that you can go to. You have to be hired somewhere and then go through their in-house training program.

So I completed the SLED in-house training program, which, is basically a three to five-year program where I learned in the department with other court-qualified examiners. I do a lot of reading and practical exercises on my own.

At the end I take a competency test, and then pending that I pass that, I can work cases on my own.

Q. Have you completed the SLED authorized firearms examination training?

A. I did in 2010.

Q. And how many cases have you worked on in firearms examination for SLED, approximately?
A. Probably thousands.
Q. And are you a member of any professional organizations related to firearms examination?
A. I'm a regular member of the Association of Firearm and Toolmark Examiners, which is an international organization for my profession.
Q. Have you ever been -- excuse me. Are you a member of any professional organizations related to firearms examination?
A. Yeah, AFTME is part of that.
Q. Okay. And have you ever been qualified as an expert in firearm examination?
A. I have.
Q. Approximately, how many times?
A. Approximately, 80 times.
Q. In state court or federal court?
A. State, South Carolina.
Q. Okay.
MS. SMITH: Judge, at this time, we would over Ms. Eichenmiller as an expert in the field of firearms examination.
THE COURT: Any voir dire?

MR. SMALDONE: No, Your Honor.

THE COURT: The Court finds that she's qualified.

MS. SMITH: Thank you, Judge.

BY MS. SMITH:

Q. How do you, Ms. Eichenmiller, go about matching a shell casing or a fired bullet to a particular weapon?

A. Whenever we receive a firearm in a case, we'll examine it for safety, we'll document the condition it was received in, and then we'll test fire it so that the specimens I get I know came from that firearm.

And then we'll use comparison microscopes, which is basically two separate microscopes. I can put a cartridge case on one side and a cartridge case on the other, look through a pair of eyepieces that look like binoculars, and microscopically look at the marks that are left on the cartridge case or bullet, comparing them to the test specimens I received -- or I created from the firearm.

Q. And is that similar to the way that you would have examined a spent shell casing?

A. Yes.

Q. Okay. And with regard to this case, SLED Lab Number L-1603488, did you have occasion to examine some evidence submitted to SLED?

A. Yes.

Q. And I believe that you came into possession of a number of items. I would ask you to look at State's 14, 16, and 20 that have already been admitted into evidence and determine if those are the items that you were able to examine in this case?

A. Whenever I receive evidence in a case, I'll make certain it's all sealed when I get it and then I seal it after I'm finished. I'll also write on there with the case number, the item number, and my initials. These are the items that I examined in this case.

Q. Did you observe your initials and the case number on those items?

A. Yes.

Q. And can you tell me who delivered those items to SLED and where they came from?

A. According to our internal chain of custody, A. M. Flood of the Berkeley County Sheriff's Office delivered them to SLED.

Q. And do they -- they appear to be in

substantially the same condition as when you received them?

A. Yes.

Q. All right. Beginning with State's Exhibit 14, the Smith and Wesson SD 40 DE, a .40 caliber pistol, what did you do with that item when you received it?

A. I usually take pictures, I'll document it. We have forms that we fill out taking down the serial number, the manufacturer, anything that might appear to be wrong with it, if it has scratches or anything kind of trace evidence on it.

Then I'll test fire it in our bullet recovery tank, which is a vertical water tank that stretches down two floors of the building. It catches all bullets at the bottom in a little colander.

And then I bring them up and bring them back to my office to compare to any fired evidence I may have received.

Q. Did you determine this item, State's Exhibit 14, to be in working condition?

A. It was.

Q. And what do you use those test fires for?

A. I will compare them to any fired evidence that we receive in the case.

Q. Moving on to State's Exhibit Number 20, what did you do with that item?

A. Exhibit 20 is a fired cartridge case. I put the cartridge case -- I'll do the same thing. I'll document the condition that I received it in and then make headstamp information.

And then I examine it under the microscope and compare it to the test specimens from the firearm.

Q. Were you able to reach any conclusion regarding State's Exhibit Number 20, the cartridge casing?

A. Yes.

Q. And what was that conclusion?

A. Based on my physical microscopical comparison with the cartridge cases from the firearm, I determined that matching individual identifying characteristics were found and that State's Exhibit 20 was fired by State's Exhibit 14.

Q. And how did you arrive at that conclusion?

A. After looking at the cartridge casings next to each other, the test specimens and the

evidence that I received, the fired cartridge case, Item 20, I determined there were enough microscopic marks placed there by the firearm to make it individual to that firearm.

Q. And moving to State's Exhibit Number 16, the fired bullet, what did you do with that item?

A. The fired bullet, I used a form and I filled out the same things, diameter, the condition I received it in, if there was any trace evidence, and then I compared that bullet to the test specimens I had created from the firearm.

Q. Were you able to make a conclusion as to the caliber of State's Exhibit Number 16?

A. It was a 40 S and W or a .10 millimeter auto caliber bullet.

Q. Were you able to make a conclusion as to whether it was fired by State's Exhibit 14, the Smith and Wesson .40 caliber pistol?

A. Due to insufficient corresponding individual characteristics, I couldn't determine if it was fired by that firearm or another firearm with similar rifling.

Q. Did that have anything to do with the condition that you received it in?

A. Sometimes bullets will come in and they're damaged. In addition, some firearms just don't mark as well as other firearms, and it could also be related to the jacket material.

So a lot of those things just combine to not -- to make an inconclusive result.

Q. Thank you. So your testimony today is not that the bullet was not fired by that pistol. It's just that you're unable to make a conclusion based on the condition and the microscopic characteristics of that bullet?

A. Correct. This bullet had the same general class characteristics, the firearm -- if I can check my notes.

THE COURT: Yes, ma'am.

THE WITNESS: The firearm is five right conventional rifling and the bullet is also five right conventional rifling. That's how I determined that I was going to compare it to that firearm and not -- not have to compare it.

If it was six right versus a five right, I wouldn't even have to microscopically compare it because it couldn't have been fired by that firearm, but in this case the general characteristics matched.

It was the right caliber, it had the right number of lands and grooves, the right directional twists, and it was the right type of rifling.

MS. SMITH: Thank you, Ms. Eichenmiller. I have no further questions at this time.

THE COURT: Cross examination?

MS. SMITH: I'm going to remove the evidence from the witness stand.

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. Ms. Eichenmiller, good morning.

A. Good morning.

Q. So I just want to make sure everyone understands what you said. All right. Because, forgive me, it was a little bit technical which is a good thing.

So when you -- we know guns, some people don't know guns, but when every -- what people call a bullet is really a casing and a projectile, right?

A. That would be an unfired cartridge.

Q. Right. Right. But a lot of people call those bullets, right?

A. Correct.
Q. You certainly would, right?
A. Correct.
Q. Right. So an unfired cartridge like you buy from Walmart, that's a casing and a projectile which is the bullet?
A. Correct.
Q. Okay. And what's the name for that whole unit? Is that a cartridge?
A. A cartridge.
Q. Okay. So you get the cartridge and, of course, a firing pin ignites the primer, right?
A. Correct.
Q. And then a bunch of stuff happens and the bullet exits the barrel, right?
A. Correct.
Q. Okay. So in this case -- I want to make sure that we all understand. In this case you examined one spent casing, right?
A. Correct.
Q. And a spent casing is the part that holds the powder and the primer, right?
A. And the bullet, yes.
Q. And the -- I guess, yeah, and the bullet. And then it's ejected assuming the gun is

semiautomatic, right?

A. Correct.

Q. And it's ejected usually on the ground or somewhere?

A. Generally.

Q. Away from the gun, right?

A. Right.

Q. Okay. So that's what you examined, correct?

A. Correct.

Q. And you also examined the projectile which is the bullet, right?

A. Yes.

Q. Okay. And so it's your testimony -- and I think I understand, but I want the jury to also. It's your testimony that you did test the spent casing, right?

A. Correct.

Q. And you looked at some microscopic stuff on it, right?

A. Right.

Q. And you compared it to the gun you found, right?

A. Yes.

Q. And that -- that was a match, right?

A. Yes.

Q. Okay. And how -- what -- forgive me, I just don't know. What kind of stuff did you look for?

A. I look at the firing pin impression; I look at any breach face marks that are there. And these are marks that are put on the cartridge case by the firearm during the firing process.

There is also things called firing pin aperture shear, which is in certain firearms the barrel will be held together and then the force of recoil will separate it. And it will sort of make another mark on the cartridge case that I can look at. It's all in the primer is what I'm looking at.

Q. Okay. So you were looking at marks on the outside or the inside of the casing?

A. The outside.

Q. Okay. So -- and that matched to the gun that was recovered, right?

A. Yes.

Q. Okay. So almost without question the spent casing came from that gun?

A. Correct.

Q. Okay. And then you also tested the spent -- not spent, the shot projectile, right?

A. The fired bullet.

Q. The fired bullet, yeah. And that was what was inconclusive though, right?

A. Correct.

Q. All right. It was inconclusive because of the deformity?

A. Some damage and just not enough marks of value for me to render an opinion if it was fired by that firearm or not.

Q. Okay. But -- and it is your testimony that the type of rifling on the barrel of that gun is the same that marked that bullet, right?

A. Yes. It's the same number, the same size, the same direction, the same type.

Q. Right. And I think you said the bullet was a five right?

A. Yes.

Q. And that means that there's five grooves in the barrel and they are twisting to the right, correct?

A. Yes.

Q. And that that would be consistent with -- what kind of gun is that?

A. Smith and Wesson.

Q. Smith and Wesson. Now, if it was a

Glock, you would have polygonal rifling, right?

A. Yes.

Q. And that would be totally different?

A. Correct.

Q. So you would know that that was a Glock and not that gun?

A. Correct.

Q. So basically your testimony, and I agree with the State, is that bullet could have very well come from that gun and the spent casing did come from that gun?

A. Correct.

MR. SMALDONE: Okay. That's fine. Thank you.

THE COURT: Any redirect?

MS. SMITH: No redirect, Judge.

THE COURT: You are free to go, ma'am. Thank you.

THE WITNESS: Thank you.

THE COURT: You may call your next witness.

MR. STEGALL: The State calls Melissa Freeman.

MELISSA FREEMAN,

being first duly sworn, testified as follows:

THE CLERK: Please be seated. State your full name, and spell your last name for the record.

THE WITNESS: Melissa Ann Freeman, F-R-E-E-M-A-N.

THE COURT: Your witness.

MR. STEGALL: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. STEGALL:

Q. Ms. Freeman, where are you currently employed?

A. I'm unemployed.

Q. Where are you from?

A. Augusta, Georgia.

Q. Do you know Matt Grainger?

A. I do.

Q. How do you know Matt Grainger?

A. I've been friends with him for a few years.

Q. Do you know Glenn Lane?

A. I do.

Q. How do you know Glenn Lane?

A. He was an ex-boyfriend's cousin of mine.

Q. Do you know Grayson Griffin?

A. I do.
Q. How do you know Grayson Griffin?
A. I briefly dated him, and then we didn't end well, so...
Q. Do you know Gabby Davis?
A. Not really. I met her the night before this incident.
Q. Okay. And let's talk about the night before. What were you doing the night before?
A. I was with Matt Grainger. We had met Gabby to give her some money to go buy drugs, and we met back up with her a few hours later at the Hyatt on East Montague.

And that was really the first time I had had any interaction with her.

Q. Were you introduced to her that night or had you --
A. I don't know if you'd call it an introduction, but I was kind of -- she kind of tried to attack me on behalf of Grayson.
Q. Well, let's back up a little bit. So who all was there when you went to the Hyatt?
A. Myself, Matt Grainger, Gabby, Grayson, and another young lady that I can't remember her name.

Q. Okay. And the purpose for going to the Hyatt was -- what was it?

A. It was to buy drugs and for Matt to meet Gray officially, I guess.

Q. Okay. Did Matt end up purchasing drugs that night?

A. Well, he was supposed to, but, no, he didn't get them that night. No.

Q. Okay. What happened that night?

A. Because of the way that mine and Grayson's brief dating episode ended, and he figured out that I was there waiting in the car, he refused to sell the drugs to Matt, even though he had already acquired the money.

Q. What was Grayson wanting to do once he realized you were there?

A. He was -- he wanted Matt to keep me in the room while they left. Like, he had took my phone, he had Gabby, like, try to attack me pretty much on his behalf.

Q. What -- well, that was my next question. What was Gabby Davis wanting to do?

A. She was wanting to jump on me pretty much.

Q. Did she?

A. No, not physically. She got in my face and raised her hand and threatened, but Matt kind of intervened in that.

Q. So what did you-all do after that?

A. Matt did what Gray asked, which was kept me in the room for 10 or 15 minutes after Gabby and Gray left. And then we left behind them.

Q. Where did you-all go?

A. Back to my hotel room.

Q. And where was that located?

A. The Best Western on Ashley Phosphate.

Q. And did you stay there into the morning hours of September 27th, 2015?

A. We did. It was turning into my birthday.

Q. So does that day stick out pretty good in your mind?

A. It does. I haven't had a normal birthday since.

Q. All right. What happened that morning that you remember?

A. We got back to my hotel room. I let Matt borrow my car, and he went to see his girlfriend who worked at a BP station off of Highway 78.

Whenever he got back, he told me that we were going to take a ride, hopefully, to pick up what we were supposed to pick up the night before. And so I went and took a shower and when I got out of the shower, he said, come on, let's go.

I didn't even get a chance to put my makeup on, so --

Q. Do you remember about what time he received that call?

A. Maybe 5:30, 5:30 or 6:00.

Q. Is that in the morning?

A. Uh-huh.

Q. And did he tell you where you were going?

A. He didn't. He just said, let's take a ride. I assumed.

Q. Okay. Was he armed?

A. Not at that moment, no.

Q. Where did you actually go?

A. We ended up in Windwood on a main -- I don't even know the name of the road. I had never really been there before.

Q. All right. What did you do when you got to Windwood? Where did you pull?

A. We were going down that main road, and

there was a car parked on the right-hand side of the road and we pulled up behind it.

It was like a Dodge Charger or a Challenger or something, and we pulled up behind it on the side of the road.

Q. So you're on the same side as the Charger?

A. Yes, sir.

Q. All right. Who all was in the car with you?

A. Me, Glenn, and Matt.

Q. Where was everybody positioned in the car?

A. Matt was driving, I was in the passenger seat, and Glenn was in the back.

Q. Did you see anybody get out of the Charger?

A. Yes. Gabby got out of the passenger side of the charger.

Q. You recognized that woman that got out to be the same woman that almost attacked you the night before?

A. Exactly.

Q. What happened when she got out?

A. She walked around to the driver's side

door and, being what happened the night before, I didn't give her direct eye contact. I kept looking in the mirror because I was in the middle of doing my makeup, and --

Q. Which mirror?

A. Into the mirror.

Q. The rearview or the side?

A. The mirror -- rearview.

Q. All right. Did she open the door?

A. No. The window was rolled down.

Q. Okay. Could you hear what they were talking about?

A. No, not really. I don't know if I blocked it out or what. I don't know if they even said anything.

Q. What happened after that?

A. She left -- she left from the side of the car, went back to the Challenger, and about that time I heard something click.

Q. What was that?

A. I looked over in the driver's seat and Matt had a gun in his hand.

Q. Do you remember what the gun looked like?

A. It looked like .9 millimeter or

something, and he was sticking an extended clip in the bottom of it.

MR. STEGALL: The Court's indulgence.

BY MR. STEGALL:

Q. I'm going to show you what's been entered as State's Exhibit 14. See if you recognize this.

MR. STEGALL: May I approach, Your Honor?

THE COURT: You may.

THE WITNESS: Yes.

BY MR. STEGALL:

Q. Yes, what?

A. That is the gun.

Q. All right. So Grainger didn't have a gun and now has a gun. What happens next?

A. When I saw the gun in his hand, I was like, whoa, whoa, whoa. Matt, what are we really doing right now?

And that's when he told me that three weeks prior Gabby had gotten robbed for $1700 and a motorcycle. And that that morning she had gotten a phone call from someone telling her where the person was that robbed her.

And he said, we're just going to go in

here and scare them and, hopefully, recover some of the money and find out where the bike is.

Q. All right. What happened next?

A. I kind of got really nervous. And he cranked up the car and we made -- within, not even a minute, less than a minute we were in the driveway of that house.

Q. Okay. Anybody else in the driveway at that point?

A. Gabby and Glenn -- I mean, Gabby and Grayson had pulled in before us because they were in front of us.

Q. Okay. Did anyone get out of your car?

A. Matt got out, Glenn got out, and I sat in the passenger seat because that's what Matt told me to do.

Q. Did Matt have anything with him when he got out?

A. He had the gun.

Q. Did you stay in?

A. I did stay in. I opened the door and left the door open, but I sat in the car.

Q. Do you see anyone get out of the Charger?

A. Yes. Glenn and Gabby both got out, and

whenever -- I'm sorry, Grayson and Gabby got out of the Challenger, and Grayson had a gun in his hand.

Q. Did you see anything in Gabby's hands?

A. Not at that moment, no.

Q. All right. What happened next?

A. They walked up the front steps of the house, and a couple minutes later I started hearing glass break. And I got scared so I walked up to the front porch to see what was going on.

And Glenn and Gabby were -- and Matt were standing at the door. And I was like in the middle where the steps were. And on the right side was Grayson punching out the front windows of the house with a gun.

Q. All right. What did you observe next?

A. Gabby was kicking the door trying to get it open. She couldn't so she told Glenn to kick it, and Glenn kicked it and it popped open.

Q. What was Grayson doing?

A. He had done busted out the front window with the gun and he had stuck his arm through, and he told everybody not to move.

Q. He was on the porch still?

A. Uh-huh.

Q. You saw his hand extended through

the --

A. Right. He had his arm struck all the way through the window.

Q. Okay. Once the door was opened, did anybody go in?

A. Since Glenn kicked the door, the door popped open and he stood right there at the door. He didn't go any further. Matt went in, Gabby went in, and then Grayson went in and followed.

Q. Did you observe Gabby do or say anything when she entered the house?

A. She started spraying everyone with pepper spray.

Q. How was she spraying it? Can you --

A. Just something like this. (Indicating)

Q. Everywhere?

A. Everywhere.

Q. Was she saying anything?

A. Where is Mark? Where is Mark? I know he's in here.

Q. What happens next?

A. Grayson went over to the couch where there was two individuals, and he was pointing the gun at them, they were like hovered. And Matt and Gabby ran back to a bedroom that was like

catty-cornered where Mark came out of the closet.

Q. Okay. Did you see Mark come out?

A. I did.

Q. Okay. What happened next?

A. There was like a struggle. I didn't realize it at the time, but I guess Matt had gotten pepper spray in his eyes, he fell to the floor.

All of a sudden, all you see is the top half of Matt's body. That's because of the way they were struggling.

Mark bent over, grabbed the gun, and they started tugging on it back and forth, and the gun went off.

Q. What happened once the gun went off?

A. It scared me, I jumped off the porch, and when I turned around, everybody was coming out of the house. I didn't see Matt so I wasn't sure where the bullet had gone.

So I turned around to go run back in the house, and I was like, where is Matt? Where is Matt? And Gabby grabbed me by my shirt and told me to get in the car.

And by that time, I turned around and looked one more time and Matt was coming out of the house.

Q. Can you describe his appearance when he came running out of the house?

A. He had some blood on his shirt, his eyes were really red.

Q. Okay. So what did you-all do when he came out?

A. He got back in the driver's seat and proceeded to drive away, but because of the pepper spray he was all over the road and he was really scared. So me and Glenn both told him he needed to pull over.

So he did pull over on the side of the road on that same road, and he got out and changed seats with Glenn.

I was hysterical. But he had told me -- he was like, I shot him, you know, I shot him. And I asked him, I said, where did you shoot him at, Matt? And he said in his leg.

Q. So you were still in the same seat that you arrived in?

A. Uh-huh.

Q. Okay. So who ended up getting in the driver's seat at that time?

A. Glenn did.

Q. Where was the gun at this point?

A. At that point it was in Glenn's lap. He had done gotten it from Matt. I took off my shirt so that Matt could get the pepper spray out of his eyes and wiped some of the blood off of his face and off his shirt.

Q. What did Glenn do with the gun?

A. He had it in his lap like up under his T-shirt.

Q. Okay. Where did you-all go?

A. We went back to my hotel room at the Best Western to drop Matt off so he could get in the shower and like wash his eyes out.

Q. Once you got him upstairs in the shower, what did you do next?

A. I left him at my room and went to take Glenn because Glenn had to be at work that morning. So I went to go drop him off at his house.

Q. Did you-all receive any phone calls while you were on the way to Glenn's house?

A. Not on the way to Glenn's house, no. Oh, well, I'm sorry, yes. Actually, Matt called and said that he wanted me to make sure I brought the gun back, because he said Grayson wanted his gun back.

Q. And where was the gun at this point?

A. It was still with -- Glenn still had it.

Q. All right. What happened when you got to Glenn's house?

A. Glenn said he refused to send the gun back with Matt after what had happened. So he said that he was going to take it and dispose of it.

Q. Okay. And after you dropped him off, what did you do next?

A. Matt told me he was starting to get sick from withdrawal, so I went to North Charleston to the Hawthorne to trade some drugs for something for him before I went back to my hotel.

Q. Okay. So after you did that, then what did you do?

A. On the way back to my hotel after I had gotten the drugs, I -- I got -- I had called someone, Justin Green, to confront him about something else that happened like a month prior.

And he told me he didn't have time to talk about it right then because his homeboy had just gotten killed in Windwood.

Q. And who was his homeboy he was referring to?

A. Mark Connor.

Q. What did you do once you got that information?

A. That was the moment that I realized -- we didn't know that Mark was dead until that moment. And at that moment I picked up the phone and called the police. And I told them that something had just happened and I needed to talk to someone.

Q. Were you able to make contact with the police?

A. I did. They ordered me to go park and that they were going to come pick me up.

Q. And did they come pick you up?

A. They did, from the Lowe's parking lot off of Ashley Phosphate.

Q. Did you provide a statement to the police?

A. Yes.

Q. Is that statement the same as what you testified here today?

A. To my knowledge. It's been four years, but, I mean, I have told the truth the entire time so...

Q. Okay. You were with Glenn, Matt, Grayson, and Gabby for most of that morning, the

entire incident?

A. Yes.

Q. Whose idea was this?

A. Gabby's.

Q. What would you call her role in this?

A. She orchestrated it.

MR. STEGALL: No further questions, Your Honor.

THE COURT: Cross examination?

CROSS-EXAMINATION

BY MR. SMALDONE:

Q. I believe it's noon, so good afternoon.

A. Good afternoon.

Q. All right. So you had -- it's your testimony that you had just met Gabby, what? A couple of days before this?

A. The night before.

Q. The night before this. Okay. And you knew Grayson from how long ago?

A. A few months prior to that we had dated very briefly.

Q. How briefly?

A. Like a week.

Q. A week. And what happened with that?

A. He was trying to play this big drug

Lord --

MR. STEGALL: Objection, Your Honor; relevance.

THE COURT: What's the relevance?

MR. SMALDONE: Your Honor, may we approach?

THE COURT: You may.

(Bench conference)

BY MR. SMALDONE:

Q. All right. So you dated Grayson a few months before this, right?

A. Right.

Q. Okay. And then you-all broke up after about a week?

A. (Nodding head)

Q. All right. And so a few months later you were still hanging out with Grayson?

A. No.

Q. Okay.

A. No. I was hanging out with Matt. It was pure coincidence that I ran into him again.

Q. Okay. And you said that -- I'm sorry, that you ran into him that day, and he was upset over it?

A. That night.

Q. That night?

A. The night before, yeah.

Q. The night before this happened?

A. Uh-huh.

Q. Okay. And that was at a hotel?

A. The Hyatt on East Montague.

Q. The Hyatt on East Montague. Okay. And from the Hyatt, where did you go?

A. We went back to my hotel room.

Q. Okay. So your hotel room. And from your hotel room, you went to the incident site?

A. No. Matthew Grainger borrowed my car and went to go visit his girlfriend who worked at a BP station on Highway 78.

Q. Okay. So you went to the BP station on Highway 78 to see his girlfriend?

A. He did.

Q. He did. Okay.

A. By hisself (sic).

Q. And you stayed at your hotel room?

A. I did.

Q. All right. So at the time -- you got picked up by Matt Grainger later on to go to that site?

A. Well, he -- no, he came back to my

hotel. He had been gone a very long time in my car. And by that time I was kind of upset about it, and so I told him he needed to come back.

Q. Okay. And during this whole period, you were using drugs, right?

A. I was.

Q. Okay. And you probably hadn't slept in awhile, right?

A. No. I had slept the night before.

Q. Okay. So just to get a timeline, Matt -- you and Matt rode alone to that house, right?

A. To the house --

Q. To the incident site.

A. No. Matt and Glenn and myself.

Q. You, Matt, and Glenn, okay. But you picked up Glenn where?

A. Glenn actually took a taxi to my hotel room.

Q. Okay. So you-all -- from the hotel room all three of you rode together, right?

A. Right.

Q. And it was your understanding from Matt -- was it Matt or Glenn that said that they were just going to scare somebody?

A. Well, I didn't find that out until we

were -- like right before we pulled into the driveway.

Q. Okay. And who said that, Matt or Glenn?

A. Matt did.

Q. All right. So they went inside, there were windows broken, right?

A. No. Grayson broke the window and was standing at the front.

Q. Grayson broke the window, right?

A. Right.

Q. And then everyone went inside, and then you stayed in the car until when?

A. When I started hearing the glass break from the window being broken, that's when I got out of the car and walked to the porch to see what was going on.

Q. All right. So you got out of the car, walked to the porch. Did you enter the house or did you not enter the house?

A. No. I stood right outside the door.

Q. Okay.

A. Like where I could see everything in the house, but I didn't go over the threshold, no.

Q. Okay. And what you witnessed was, you

said Matt fell?

A. He fell to the floor, but I witnessed Gabby spraying everybody with pepper spray first.

Q. Right. So -- but Matt fell to the floor. Did it look like he tripped or was he pushed?

A. Well, him and Mark were struggling and he had pepper spray in his eyes, Matt did. And I guess there was a soft spot in the floor because, all of a sudden, all we saw was the upper half of his body.

Q. Okay. And did he shoot like as he was falling or when he was already on the ground?

A. He was already through the floor, and Mark bent down and grabbed the gun, and they were tugging at the gun.

And the way the angle of the gun was, when it went off, it shot him.

Q. And when you say, through the floor, did the floor cave in?

A. I suppose so. I mean, I really didn't have a clear look of it. Like the couch, you had to look over, and you could see right there.

Q. Okay. So from what you saw, you can't tell if the floor fell in or not?

A. No, but -- that's what I'm assuming happened. The top of his body was sticking up out of the floor, so...

Q. Oh, okay. So the top of his body -- so his -- was he still upright and the floor was like at his hips?

A. Yes.

Q. And who -- that was Matt?

A. Matt Grainger.

Q. Okay. So Matt was like, basically, standing on the ground through the house?

A. Right.

Q. All right. Okay. And you had been to that house before?

A. No, never.

Q. Okay. So you don't even know anything about the house?

A. I knew nothing or no one in the house.

Q. Okay. All right.

MR. SMALDONE: Beg the Court's indulgence. All right. I think that covers everything. I don't have any more questions for you.

THE COURT: Any redirect?

MR. STEGALL: Nothing on redirect, Your

Honor.

THE COURT: You may step down.

THE WITNESS: Thank you.

THE COURT: Would you-all please approach?

(Bench conference)

THE COURT: Ladies and gentlemen, it's about -- a little bit after 12 o'clock. It's a good time for us to take our lunch break. If you would please be back in your jury room at 1:15, that should give you sufficient time to go grab some lunch and get back to your jury room.

Again, please remember my previous instruction not to discuss this case with anyone or allow anyone to discuss the case with you. Have a nice lunch.

(Jury out, 12:06 p.m.)

THE COURT: We'll be at recess until 1:15.

(A luncheon recess transpired.)

THE COURT: Thank you. Everybody please have a seat.

Parties ready to proceed?

MR. STEGALL: State is ready, Your Honor.

MR. SMALDONE: Defense is ready as well.

THE COURT: Let's have our jury, please.

(Jury in, 1:20 p.m.)

THE COURT: Welcome back. I hope that you had a nice lunch.

Before I forget to do this, ma'am, on the end, your name is Ms. Cote?

FOREPERSON: Cote.

THE COURT: Since you're sitting in that seat, I will appoint you as the foreperson. This is a very scientific process we're using, but the foreperson -- I'll explain the duties later -- but, basically, you're responsible for writing the verdict on the verdict form and things of that nature.

You may call your next witness.

MR. STEGALL: The State calls Glenn Lane.

GLENN LANE,

being first duly sworn, testified as follows:

THE CLERK: Please have a seat. State your full name for the record and spell your last name.

THE WITNESS: Glenn Randall Lane, the Second.

THE COURT: Your witness.

MR. STEGALL: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. STEGALL:

Q. Glenn, where are you from?

A. North Charleston.

Q. Do you know Matt Grainger?

A. I do.

Q. How do you know him?

A. We went to school together.

Q. Do you know Gabby Davis?

A. No. I don't.

Q. Do you know Grayson Griffin?

A. I don't.

Q. Do you remember what you were doing the night of September 26th into the morning hours of September 27, 2015?

A. I do.

Q. What were you doing that night?

A. I was waiting on a ride to come pick me up from my aunt's house.

Q. Who was supposed to come pick you up?

A. Melissa Freeman was supposed to come

pick me up originally.

Q. Did she not?

A. She didn't.

Q. Who came to pick you up?

A. Matt Grainer.

Q. What car was he in?

A. A blue Audi, I think.

Q. Was it his car?

A. Not to my knowledge. He didn't have a vehicle.

Q. Okay. So he picks you up. Where did you go?

A. Best Western on Ashley Phosphate.

Q. What were you doing at the Best Western?

A. Getting high.

Q. Who all was there?

A. Me, Matt, and Melissa.

Q. Okay. At any point did you leave the Best Western?

A. I did.

Q. About what time did you leave?

A. I wasn't there 30 minutes.

Q. Okay. Where did you go?

A. Down the interstate and went -- headed

towards Moncks Corner.

Q. About what time of the morning was this?

A. 7:30, 8:00, something like that, if I had to guess. I don't know. I wasn't paying attention to that.

Q. Who all was in the car with you?

A. Same people that was in the room with me, Matt and Melissa.

Q. Who was driving?

A. Matt.

Q. Where were you sitting?

A. Behind Melissa in the back passenger.

Q. So how long were you with Matt Grainger that night, into the morning?

A. He come pick me up and we went -- an hour.

Q. All right. At any point during that time with Grainger, did you see him with a firearm?

A. I did not.

Q. So during your ride to Moncks Corner, did you make a stop? Did Matt make a stop?

A. Yes.

Q. Where did you stop?

A. We stopped in a neighborhood.

Q. Do you remember what neighborhood it was?

A. Same neighborhood this incident happened in.

Q. Where did you -- let me back up. Did you pull directly into the residence first?

A. No.

Q. Where did you go first?

A. Just pulled on the side of a road.

Q. Okay. Do you know if anyone else was on the side of the road with you?

A. Not at that point, I did not.

Q. Okay. Do you remember any cars pulling up or already there?

A. Not that I saw.

Q. Okay. So what happened when you were stopped on the side of the road?

A. We stopped on the side of road, somebody come up to the vehicle, sat inside the vehicle like I'm sitting right here. While I was sitting like this. (Indicating)

Q. When you say someone came up to the vehicle --

A. It was a female, but that's all -- it could have been this lady here. (Indicating) This

lady here. (Indicating)

Q. All right. So you were sitting there in the passenger seat of the car facing --

A. Passenger back seat of the vehicle.

Q. Which side of you, if you could demonstrate for the jury, did the female come?

A. Right there. (Indicating)

Q. What did you do?

A. Sat doing what I was doing on my phone.

Q. Did you look at her?

A. I had no reason to. I had no reason to.

Q. Could you hear what they were talking about?

A. No.

Q. All right. What happens next?

A. Talked for a few seconds, her and Matt. He was talking the same way she was outside of the vehicle, and then we left.

Q. At that point, could you see if Matt had anything with him?

A. Not at that point I could not.

Q. Where did you pull?

A. What do you mean?

Q. Where did you go?

A. We pulled into somebody's yard about 30 seconds later. I was not familiar with this area at all.

Q. Did anybody else pull in the yard?

A. Yeah. Right as we pulled in, another vehicle pulled in.

Q. All right. When you pulled in, what did everybody in your car do?

A. I was sitting right there and Melissa was sitting right here, (indicating) and Matt, all of a sudden, jumps out of the car.

Q. Okay. Could you see anything in Matt's hand at that point?

A. Yeah; he had a pistol in his hand.

Q. Did you get a look at the pistol?

A. I did not.

Q. What did you do when he jumped out with the pistol?

A. He jumped out with the pistol and started running towards the door. I stopped and lit a cigarette thinking this is not what I thought this was right here.

Q. Were you armed?

A. I didn't think this was an aggressive situation.

Q. Were you armed?
A. I was not.
Q. You said you saw somebody else pull in. Did anybody get out of that car?
A. Two people.
Q. Male or female?
A. One of each.
Q. Did you notice anybody carrying anything?
A. Not at that point in time I didn't.
Q. Where did they run?
A. Towards the house.
Q. All right. What happens next?
A. As I lit the cigarette and get out of the back passenger seat of the vehicle, I'm kind of, what the fuck is going on here. Excuse my language.
THE COURT: Sir, don't use that language in the courtroom.
THE WITNESS: Well, that's what I was thinking. So I walked up on a porch with three steps and a little landing right here and a door. Three people were crowded around there and tried to kick the door open.
I wake up then. And I said, ain't no

way. So I turned around and walked back to the vehicle. As I'm walking back to the vehicle, I turned around and I walked right back up to the edge of the steps right here.

And as soon as I do that, I was like, there ain't no way. Whatever you got going on, man, get me out of here. You can deal with this later is what I'm thinking in my head. As soon as that happens, the door just kicked open. Everybody was crowded around it; I couldn't tell exactly who had kicked the door in.

Once that happened, I walked back to the vehicle and got in the vehicle and shut the door.

BY MR. STEGALL:

Q. Let me back up a little bit. I'm going to show you what was marked into evidence to give the jury a little reference. Can you tell the jury where everybody was, including yourself?

First, what is this picture?

A. Looks like a porch.

Q. Okay. Can you expand on that?

A. Not really.

Q. All right. Turn back around. I need you to tell the jury exactly what happened when

everybody was on the porch?

A. I just told you. Told them.

Q. Who kicked the door?

A. I just told you. All three of them were crowded around it, I don't know. I wasn't writing a book. I didn't want to be there. I didn't sign up to be there. I didn't know what was going on at this time.

I thought somebody was going to pick some money up for some dope. That's it. Apparently, they had another agenda.

Q. If you didn't want to be there, why did you come back to the porch after leaving the first time?

A. Trying to be friendly and help a friend out to get out of a situation, but once the door got kicked in, I'm out of here. I was never on the porch.

Q. When you say, be friendly and help a friend out, what do you mean by that?

A. This is not what you want to do. That's what I mean by that.

Q. Did you say that to anybody in particular?

A. No.

Q. Did you hear anything?
A. No.
Q. After they entered the residence, you didn't hear anything?
A. Not until -- I don't know. When I got back into the vehicle, I heard a shot about two minutes later, minute and a half, two minutes later. Something like that.
Q. What happened after you heard that shot?
A. Everybody come running out of that residence.
Q. After everybody ran out of the residence, what did everybody do?
A. Got in their vehicles and proceeded to leave.
Q. Who got in what vehicle?
A. Matt got in the -- everybody got in the same vehicle they got out of.
Q. So where did Matt get?
A. Same driver's seat, like he was.
Q. Did he drive?
A. Uh-huh.
Q. He drove?
A. That's correct.

Q. Did he pull over at any point?
A. He did.
Q. What happened next?
A. I got in the driver's seat.
Q. Where is the gun at this point?
A. In the front seat.
Q. What did you do with the gun?
A. Take the clip out of it, wrapped it up in my shirt, and put it in the cooler.
Q. Why did you do that?
A. I didn't have my gun with me.
Q. Where did you drive?
A. Back to the same hotel we left.
Q. What happened once you got back to the hotel?
A. Matt and Melissa went upstairs, did whatever they did, Melissa come back downstairs and took me back to my aunt's house.
Q. Did she drop you off?
A. That's correct.
Q. What did you do with the gun?
A. Took it with me.
Q. What did you do with it once you got to your aunt's house?
A. Not much. Took it out of the cooler

and put it into my tool bag.

Q. Did you put anything around it?

A. No.

Q. Were you arrested and charged related to this incident?

A. That's correct.

Q. What were you charged with?

A. Murder.

Q. Anything else?

A. Not initially, no.

Q. How about after initially?

A. Kidnapping, burglary first, criminal conspiracy.

Q. Are those charges still pending?

A. That's correct.

Q. Have you been offered to testify today? Have you been offered any plea deal or any sort of an arrangement?

A. No.

Q. Why are you here?

A. To clarify the situation.

Q. What do you mean by that?

A. Exactly what I just said.

Q. Can you expand on that?

A. How far in depth do you want me to go